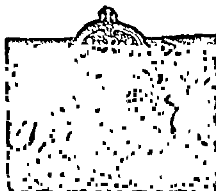


Government of India Bill.

(INDIAN REPRINT.)

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1935
(*Twelve annas.*)

Government of India Bill.

FINANCIAL MEMORANDUM

It is proposed in this Bill to make provision for the transfer to Votes of Parliament of the expenses of the Establishment of the Secretary of State (Clauses 264 (5), 266 (1), 267 (2), (3), (5) and (6), 431 (5) and 432 (3)) Provision is made for the payment of contributions from the revenues of India and Burma in respect of so much of the expenses of the India Office as is attributable to the performance on behalf of India and of Burma of such agency functions as it may be agreed between the Secretary of State and the Governor General of India and the Governor of Burma that the India Office should perform The amount of the contribution payable in this regard will be agreed between the Governor General and the Treasury (Clause 266 (3)) and the Governor of Burma and the Treasury (Clause 432 (1)) A contribution will also be made from the revenues of India in respect of the superannuation allowances, etc , of the India Office staff transferred (Clause 268 (1))

This proposal gives effect to the suggestion made in paragraph 389 of the Report of the Joint Committee on Indian Constitutional Reform and reverses the present arrangement under which the expenses of the India Office are a charge on the revenues of India, an annual grant in aid being made towards those expenses from British revenues This grant is at present £110,000 a year, a figure which represents broadly the cost of the administrative functions of the India Office, as distinct from the agency functions which it performs on behalf of the Governments in India

The total present annual cost of the India Office Establishment on account of salaries pensions and contingencies is estimated as follows —

	£
Salaries and wages	198,000
Pensions	62,000
Contingencies stationery printing book binding postage and telegrams to India National Health Insurance law charges	32 000
Total	292 000
Present annual grant in aid from British revenues	110 000
Net charge on Indian revenues	182 000

Until the Secretary of State the Governor General of India and the Governor of Burma have agreed upon the functions which the India Office shall in future perform on behalf of the Governments in India and the Government of Burma it is not possible to give an exact estimate of the net charge which will fall on British revenues from the proposal but it is not anticipated that this charge will differ materially from the present figure of £110 000

As from the date when Aden ceases to be a part of British India (for which provision is made in Clause 270 (1) of this Bill) the present Indian contribution towards military and political expenditure in Aden will cease This contribution is fixed at one third of such expenditure and is therefore a varying figure but is subject to the provision that it shall not exceed £150 000 a year

Government of India Bill.

ARRANGEMENT OF CLAUSES

PART I

INTRODUCTORY

Clause

1. Short title
2. Government of India by the Crown
3. The Governor General of India and His Majesty's Representative as regards relations with Indian States
4. The Commander in Chief in India

PART II

THE FEDERATION OF INDIA

CHAPTER I

ESTABLISHMENT OF FEDERATION AND ACCESSION OF INDIAN STATES

5. Proclamation of Federation of India
6. Accession of Indian States

CHAPTER II

THE FEDERAL EXECUTIVE

The Governor General

7. Functions of Governor General
8. Extent of executive authority of the Federation.

Administration of Federal Affairs

9. Council of ministers
10. Other provisions as to ministers
11. Provisions as to external affairs, defence and ecclesiastical affairs

Clause.

12. Special responsibilities of Governor-General.
13. Provisions as to Instrument of Instructions.
14. Superintendence of Secretary of State.
15. Financial adviser to Governor-General.
16. Advocate-General.
17. Conduct of business of Federal Government.

CHAPTER III.

THE FEDERAL LEGISLATURE.

General.

18. Constitution of the Legislature.
19. Sessions of the Legislature, prorogation and dissolution.
20. Right of Governor-General to address Chambers.
21. Rights of ministers and counsellors as respects Chambers.
22. Election of officers of Chambers.
23. Voting in Chambers, power of Chambers to act notwithstanding vacancies, and quorum.

Provisions as to Members of Legislature.

24. Oath or affirmation of members.
25. Vacation of seats.
26. Disqualifications for membership.
27. Penalty for sitting and voting when not qualified or disqualified.
28. Privileges, &c. of members.
29. Salaries and allowances of members.

Legislative Procedure.

30. Provisions as to introduction and passing of Bills.
31. Joint sittings of both Chambers in certain cases.
32. Assent to Bills and disallowance by His Majesty.

Procedure in Financial matters.

Clause
33. Annual financial statement
34. Procedure of Legislature with respect to estimates
35. Authentication of schedule of authorised expenditure
36. Supplementary statement of expenditure
37. Special provisions as to financial Bills

Procedure generally.

38. Rules of procedure
39. English to be used in the Federal Legislature
40. Restrictions on discussion.
41. Courts not to inquire into proceedings of the Legislature

CHAPTER IV.

LEGISLATIVE POWERS OF GOVERNOR-GENERAL.

42. Power of Governor General to promulgate ordinances during recess of Legislature
43. Power of Governor General to promulgate ordinances with respect to certain subjects
44. Power of Governor General in certain circumstances to enact Acts

CHAPTER V

PROVISIONS IN CASE OF FAILURE OF CONSTITUTIONAL MACHINERY

45. Power of Governor General to issue Proclamations.

PART III.

THE GOVERNORS' PROVINCES.

CHAPTER I

THE PROVINCES

46. Governors' Provinces.
47. Provisions as to Berar

CHAPTER II

The Provincial Executive

The Governor

Clause
48 Appointment of Governor
49 Functions of Governor

Administration of Provincial Affairs

50 Council of ministers
51 Other provisions as to ministers
52 Special responsibilities of Governor
53 Provisions as to Instrument of Instructions
54 Superintendence of Governor General
55 Advocate General
56 Provisions as to police rules
57 Provisions as to crimes of violence intended to overthrow Government
58 Disclosure of sources of information
59 Conduct of business of Provincial Government

CHAPTER III

The Provincial Legislature

General

60 Constitution of the Legislature
61 Composition of Chambers of Provincial Legislatures
62 Sessions of the Legislature prorogation and dissolution
63 Right of Governor to address Chambers
64 Rights of ministers as respects Chambers
65 Election of officers of Chambers
66 Voting in Chambers power of Chambers to act notwithstanding vacancies and quorum

Provisions as to Members of Legislatures

67 Oath or affirmation of members
68 Vacation of seats
69 Disqualifications for membership
70 Penalty for sitting and voting when not qualified or disqualified
71 Privileges &c of members
72 Salaries and allowances of members

Legislative Procedure.

Clause.
73. Introduction of Bills, &c.
74. Passing of Bills in Provinces having Legislative Councils.
75. Assent to Bills.
76. Bills reserved for consideration.
77. Power of Crown to disallow Acts.

Procedure in Financial matters.

78. Annual financial statement.
79. Procedure in Legislature with respect to estimates.
80. Authentication of schedule of authorised expenditure.
81. Supplementary statement of expenditure.
82. Special provisions as to financial Bills.
83. Provisions with respect to certain educational grants in aid.

Procedure generally.

84. Rules of procedure
85. English to be used in Provincial Legislatures.
86. Restrictions on discussion.
87. Courts not to inquire into proceedings of Legislature

CHAPTER IV.

LEGISLATIVE POWERS OF GOVERNOR.

88. Power of Governor to promulgate ordinances during recess of Legislature.
89. Power of Governor to promulgate ordinances with respect to certain subjects
90. *Power of Governor to enact Acts.*

CHAPTER V.

EXCLUDED AREAS AND PARTIALLY EXCLUDED AREAS.

91. Excluded areas and partially excluded areas.
92. Administration of excluded areas and partially excluded areas.

CHAPTER VI.

PROVISIONS IN CASE OF FAILURE OF CONSTITUTIONAL MACHINERY.

93. Power of Governor to issue Proclamations.

PART IV.

THE CHIEF COMMISSIONERS' PROVINCES.

Clause.
94. Chief Commissioners' Provinces.
95. British Baluchistan.
96. The Andaman and Nicobar Islands.
97. Coorg.
98. Provisions as to police rules and power of Governor-General to deal with crimes of violence.

PART V.

LEGISLATIVE POWERS.

CHAPTER I.

Distribution of Powers.

99. Extent of Federal and Provincial laws.
100. Subject matter of Federal and Provincial laws.
101. Extent of power to legislate for States.
102. Power of Federal Legislature to legislate on Proclamation of Emergency.
103. Power of Federal Legislature to legislate for two or more Provinces by consent.
104. Residual powers of legislation.
105. Application of Naval Discipline Act to Indian naval forces.
106. Power of Federal Legislature to give effect to international agreements.
107 Inconsistency between Federal laws and Provincial, or State, laws.

CHAPTER II.

Restrictions on Legislative Powers.

108. Sanction of Governor-General or Governor required for certain legislative proposals.
109. Requirements as to sanctions and recommendations to be regarded as matters of procedure only.
110. Savings.

CHAPTER III.

Provisions with respect to Discrimination, &c.

111. Provisions as to British subjects domiciled in the United Kingdom.
112. Provisions as to taxation.

Clause

113. Companies incorporated in the United Kingdom.
114 Companies incorporated in India.
115. Reciprocal treatment of ships.
116. Subsidies for the encouragement of trade or industry.
117. Power to secure by convention reciprocal treatment of persons in the United Kingdom and British India.
118 Professional qualifications in general.
119. Medical qualifications.
120. Officers of Indian Medical Service, &c.
121 Savings and interpretation.

PART VI.

ADMINISTRATIVE RELATIONS BETWEEN FEDERATION, PROVINCES AND STATES.

General.

122. General duty to secure respect for Federal laws.
123 Power of Federal Legislature to confer powers, &c. on Provinces and States in certain cases
124 Administration of Federal Acts in Indian States
125. Control of Federation over Province in certain cases.
126. Acquisition of land for Federal purposes
127. Duty of Ruler of a State as respects Federal subjects

Broadcasting.

128 Broadcasting.

Interference with Water Supplies.

129. Complaints as to interference with water supplies.
130. Decision of complaints.
131. Interference with water supplies of Chief Commissioner's Province
132 Jurisdiction of Courts excluded.

Inter-Provincial Co-operation

Clause
133. Provisions with respect to an Inter-Provincial Council.

PART VII

FINANCE, PROPERTY, CONTRACTS AND SUITS

CHAPTER I

FINANCE

Distribution of Revenues between Federation and Federal Units

134. Meaning of "revenues of Federation" and "revenues of Province".
135. Certain succession duties, stamp duties, terminal taxes and taxes on fares and freights.
136. Taxes on income.
137. Salt duties, excise duties and export duties.
138. Prior sanction of Governor-General required to Bills affecting taxation in which Provinces are interested.
139. Grants from Federation to certain Provinces.
140. Power of Federation and Provinces to make grants.
141. Savings.
142. Definition of "net proceeds".

The Crown and the States

143. Expenses of the Crown.
144. Money payments from or by Indian States to be receivable by His Majesty.
145. Cash contributions and ceded territories.
146. Certain payments to Federated States, &c., to be charged on Federal revenues.
147. Value of privileges and immunities to be set off against share of taxes, &c., assigned to Federated States.

Miscellaneous financial provisions.

Clause
148. Expenditure defrayable out of Indian revenues
149. Exercise by Governor-General of certain powers with respect to Reserve Bank
150. Previous sanction of Governor General to legislation with respect to Reserve Bank, currency and coinage
151. Exemption of certain property from taxation
152. Adjustment in respect of certain expenses and pensions
153. Duty of Federation and Provinces to supply Secretary of State with funds
154. Provisions as to relation of Burma monetary system with India.
155. Relief in respect of tax on income taxable both in India and Burma.
156. Provisions as to customs duties, &c

CHAPTER II

BORROWING AND AUDIT.

Borrowing.

157. Cessation of borrowing by Secretary of State in Council
158. Federal Government may borrow on security of federal revenues
159. Provincial Governments may borrow on security of provincial revenues
160. Loans by Federal Government to States.
161. Application of Colonial Stock Acts to stocks issued by Federation.

Audit and Accounts.

162. Auditor General of India
163. Provincial Auditor General
164. Power of Auditor General of India to give directions as to accounts
165. Audit reports
166. Auditor of Indian Home Accounts
167. Audit of accounts relating to the discharge of the functions of the Crown in relation to Indian States

CHAPTER III

Property, Contracts, Liabilities and Suits

Clause

168 Vesting of lands and buildings
169 Provisions as to other property
170 Power to acquire property and to make contracts, &c
171 Suits and proceedings
172 Existing contracts of Secretary of State in Council
173 Special provisions as to existing loans, guarantees and other financial obligations
174 Legal proceedings as to certain matters

PART VIII

THE FEDERAL RAILWAY AUTHORITY

175 Executive authority in respect of railways to be exercised by Federal Railway Authority
176 Composition &c of Railway Authority
177 Directions and principles to be observed by Railway Authority
178 Conduct of business between Railway Authority and Federal Government
179 Acquisition and sale of land by, and contracts and liabilities of, the Railway Authority
180 Finance of the Railway Authority
181 Provisions as to certain obligations of the Railway Authority
182 Investment of funds
183 Special provisions as to certain funds
184 Audit and annual reports
185 Railway Rates Committee
186 Bills and amendments for regulating rates and fares to require recommendation of Governor General
187 Provisions for settlement of questions arising between the Railway Authority and the owners of
188 Sa … rights of railway
189 … companies

PART IX.

THE JUDICATURE.

CHAPTER I.

The Federal Court.

Clause

190. *Establishment and constitution of*
191. Salaries, &c., of judges.
192. Temporary appointment of acting
193. Seat of Federal Court.
194. Original jurisdiction of Federal Co
195. Appellate jurisdiction of Federal Co from High Courts in British Ind.
196. Power of Federal Legislature to jurisdiction
197. Appellate jurisdiction of Federal from High Courts in Federated
198. Appeals to His Majesty in Council
199. Form of judgment on appeal
200. Enforcement of decrees and ord Court.
201. Letters of request to Federated Sta
202. Law declared by Federal Court an to be binding on all courts
203. Power of Governor General to Court
204. Rules of court, &c
205. Powers of Federal Legislature
206. Expenses of Federal Court
207. Construction of references to H States
208. Savings

CHAPTER II

The High Courts in British Ind

209. Meaning of "High Court".
210. Constitution of High Courts
211. Salaries, &c., of judges
212. Temporary and additional appointm
213. Jurisdiction of existing High Courts
214. Administrative functions of High Co
215. Jurisdiction in revenue matters.

Clause
216 Proceedings of High Courts to be in English
217 Expenses of a High Court
218 Power of His Majesty to constitute or reconstitute High Court by letters patent
219 Extra provincial jurisdiction of High Courts
220 Saving and definitions

PART X

THE SERVICES OF THE CROWN IN INDIA

CHAPTER I

Defence Services

221 Pay &c of Commander in Chief
222 Control of His Majesty as to defence appointments
223 Eligibility for commissions in Indian Forces
224 Control of Secretary of State with respect to conditions of service
225 Saving of rights of appeal
226 Pay, &c of members of forces to be charged on Federal revenues
227 Provisions as to certain civilian personnel
228 King s India cadetships

CHAPTER II

Civil Services

General Provisions

229 Tenure of office of persons employed in civil capacities in India
230 Recruitment and conditions of service
231 Application of preceding section to railway services, and officials of courts
232 Special provisions as to police

Recruitment by Secretary of State and provisions as to certain posts

233 Services recruited by Secretary of State
234 Special provision as to irrigation

Clause
235 Reserved posts.
236 Conditions of service, pensions, &c., of persons recruited by Secretary of State.
237 Rights in respect of complaints, appeals, &c.
238 Compensation for loss of rights.

Provisions as to persons appointed by Secretary of State in Council, persons holding reserved posts and commissioned officers in civil employment.

239 Application of four last preceding sections to persons appointed by Secretary of State in Council, persons holding reserved posts and commissioned officers in civil employment.

Special provisions as to staffs of the High Commissioner for India and the Auditor of Indian Home Accounts.

240 Staff of High Commissioner and Home Auditor.
241 Conditions of service of staff of High Commissioner and Auditor of Indian Home Accounts.

Special Provisions as to Judicial Officers.

242 Judges of the Federal Court and the High Courts.
243 District judges, &c.
244 Subordinate civil judicial service.
245 Subordinate criminal magistracy.

Special Provisions as to Political Department.

246 Members of political department.

Provisions for the Protection of certain existing Officers.

247 Provision for protection of existing officers of "Central Services Class I and II" and "Provincial Services."
248 Provisions as to certain persons serving in or before 1924.
249 General provisions as to persons retiring before commencement of Part III.

Miscellaneous

Clause
250 Secretary of State to act with approval of his advisers
251 Power by Order in Council to transfer certain powers of Secretary of State
252 Joint services and posts

CHAPTER III

PUBLIC SERVICE COMMISSIONS

253 Public Service Commissions
254 Composition and staff of Commissions
255 Functions of Public Service Commissions
256 Power to extend functions of Public Service Commissions
257 Expenses of Public Service Commissions

CHAPTER IV

CHAPLAINS

258 Provisions as to chaplains

CHAPTER V.

GENERAL.

259 Indemnity for past acts
260 Exemption of pensions from Indian taxation.
261 Provision as to family pension funds
262 Transitional provisions
263 Interpretation, &c

PART XI

THE SECRETARY OF STATE HIS ADVISERS AND HIS DEPARTMENT

264 [illegible]
265 [illegible] y of State in Council
266 Organisation and expenses of India Office
267 Transfer of existing personnel
268 Contributions from revenues of Federation
269 Liability for existing pensions

PART XII.
MISCELLANEOUS AND GENERAL.

Aden.

Clause
270. Aden.

New Provinces and alterations of boundaries of Provinces.

271. Creation of new Provinces of Sind and Orissa.
272 Alterations of boundaries of Provinces and creation of new Provinces

Franchise

273 Power of His Majesty to make provision with respect to franchises and elections

Provisions as to certain legal matters.

274 Continuation of existing laws
275 Adaptation of existing Indian laws.
276. Foreign jurisdiction.
277 Provisions as to death sentences
278 Courts of Appeal in revenue matters.
279. Persons not to be subjected to disability by reason of race, religion, &c
280 Compulsory acquisition of land, &c
281. Protection of rights of Jagirdars, Inamdars &c

High Commissioner.

282. High Commissioner for India.

General Provisions.

283. Persons acting as Governor General or Governor.
284 No proceedings to lie against Governor General, Governor, or Secretary of State.
285 Procedure as respects proposals for amendment of certain provisions of Act and Orders in Council.
286. Orders in Council.

Temporary Provisions

287. Elections may be held in advance of dates fixed for commencement of Parts II and III of Act.
288. Temporary financial provisions

Interpretation

289 Interpretation

PART XIII.

TRANSITIONAL PROVISIONS.

Clause
290. Operation of Part XIII.
291. Executive Government
292. Control of the Secretary of State.
293. Sterling loans
294. Legislature
295 Continuance of certain provisions of Government of India Act
296 Provisions as to Federal Court and the Federal Public Service Commission.
297. Rights and liabilities of Governor-General in Council to continue after establishment of Federation

PART XIV.

BURMA

CHAPTER I

INTRODUCTORY

298 Government of Burma by the Crown

CHAPTER II.

THE EXECUTIVE

The Governor

299. Appointment and functions of the Governor.
300. Executive authority of Burma

Administration.

301. Council of ministers.
302. Other provisions as to ministers.
303. Discretionary functions of Governor.
304. Special responsibilities of Governor.
305. Provisions as to Instrument of Instructions.
306 Superintendence of Secretary of State.
307. Financial advisor to Governor.

Clause

308 Advocate General
309 Provisions as to police rules
310 Provisions as to crimes of violence intended to overthrow Government
311 Disclosure of sources of information
312 Conduct of business of Government

CHAPTER III

THE LEGISLATURE

General

313 Constitution of the Legislature
314 Sessions of the Legislature, prorogation and dissolution
315 Right of Governor to address and send messages to Chambers
316 Rights of ministers and counsellors as respects Chambers
317 Election of officers of Chambers
318 Voting in Chambers power of Chambers to act notwithstanding vacancies, and quorum

Provisions as to members of Legislature

319 Oath or affirmation of members
320 Vacation of seats
321 Disqualifications for membership
322 Penalty for sitting and voting when not qualified or disqualified
323 Privileges, &c , of members
324 Salaries and allowances of members

Procedure generally

325 Rules of procedure
326 English to be used in Legislature
327 Restrictions on discussion
328 Courts not to inquire into proceedings of the Legislature

CHAPTER IV

LEGISLATION

Powers of the Legislature as to Legislation

Clause
329. Extent of laws of Legislature
330. Savings.

Legislative procedure

331. Introduction of Bills &c
332. Previous sanction of Governor required for certain legislative proposals.
333. Passing of Bills
334. Assent to Bills and disallowance of Bills by His Majesty
335. Requirements as to sanctions and recommendations to be regarded as matters of procedure only

Legislative powers of Governor

336. Legislation for areas mentioned in Eleventh Schedule
337. Power of Governor to promulgate ordinances during recess of Legislature
338. Power of Governor to promulgate ordinances at any time with respect to certain subjects
339. Power of Governor to enact Acts

CHAPTER V

RESTRICTIONS ON DISCRIMINATION, &c

340. Certain Burman laws not to bind British subjects domiciled in the United Kingdom and British India
341. Provisions as to taxation
342. Companies
343. Reciprocal treatment of ships
344. Subsidies for the encouragement of trade or industry.
345. Power to secure reciprocal treatment by convention
346. Professional qualifications in general
347. Medical qualifications
34[8]. Medical officers of His Majesty's forces.
349. Savings.

CHAPTER VI.

FINANCE.

General.

Clause.
350. Meaning of revenues of Burma.
351. Expenditure defrayable out of revenues of Burma.
352. Duty of the Government of Burma to keep Secretary of State supplied with funds.

Proceedings in the Legislature.

353. Annual financial statement.
354. Procedure in Legislature with respect to estimates.
355. Authentication of schedule of authorised expenditure.
356. Supplementary statement of expenditure.
357. Special provisions as to financial Bills.

Borrowing.

358. Borrowing powers and existing loans.
359. Application of Colonial Stock Acts to stocks issued by Government of Burma.

Audit and Accounts.

360. Auditor General of Burma.
361. Accounts and audit

Federated Shan States.

362. Provisions as to the Federated Shan States.

CHAPTER VII.

THE BURMA RAILWAY BOARD.

363. Executive authority in respect of railways to be exercised by Railway Board.
364. Composition, &c. of Board.
365. Directions and principles to be observed by Railway Board.
366. Conduct of business between Board and Government.

Clause
367. Acquisition and sale of land by, and contracts and liabilities of the Board.
368. Finance of the Railway Board
369. Provisions as to certain obligations of the Railway Board
370. Investment of funds
371. Special provisions as to certain funds.
372. Audit and annual reports.
373 Railway Rates Committee.
374 Bills and amendments for regulating rates and fares to require recommendation of Governor.

CHAPTER VIII.

THE HIGH COURT.

375. Constitution of High Court.
376 Salaries, &c of judges.
377. Temporary and additional appointments.
378. Jurisdiction of High Court.
379. Administrative functions of High Court.
380. Jurisdiction in revenue matters.
381 Additional appeal to His Majesty as respects interpretation of this Act.
382. Proceedings in High Court to be in English
383. Expenses.
384. Saving.

CHAPTER IX.

THE SERVICES OF THE CROWN IN BURMA.

Defence Services.

385. Control of His Majesty as to defence appointments.
386. Eligibility for commissions in Burman forces.
387. Control of Secretary of State with respect to conditions of service.
388. Saving of rights of appeal.
389. Pay, &c., of members of forces to be charged on revenues of Burma.
390. Provision as to certain civilian personnel.

General Provisions as to Civil Services

Clause

391. Tenure of office of persons employed in civil capacities in Burma
392. Recruitment and conditions of service
393. Application of preceding section to railway services and officials of High Court
394. Special provisions as to police

Recruitment by Secretary of State and provisions as to certain civil posts

395. Services recruited by the Secretary of State
396. Special provision as to irrigation
397. Reserved posts
398. Conditions of service, pensions, &c., of persons recruited by Secretary of State
399. Rights in respect of complaints, appeals, &c.
400. Compensation for loss of rights

Provision as to persons appointed by Secretary of State in Council, persons holding reserved posts and commissioned officers in civil employment

401. Application of four last preceding sections to persons appointed by Secretary of State in Council, persons holding reserved posts and commissioned officers in civil employment

Special Provisions as to Judicial Officers

402. Judges of the High Court.
403. District judges, &c.
404. Subordinate civil judicial service
405. Subordinate criminal magistracy

Special Provisions as to Burma Frontier Service

406. Burma Frontier Service

Provisions for the protection of certain existing officers

407. Provision for protection of existing officers of "Central Services Class I and II" and "Provincial Services"
408. Provisions as to certain persons serving in [illegible] before 1924.
409. Provision as to other persons retiring before commencement of this Part of this Act.

Miscellaneous provisions as to Civil Services

Clause.
410 Application to members of Indian services serving in Burma
411 Provisions as to advisers
412 Power by Order in Council to transfer certain powers of Secretary of State

Public Service Commission

413 Composition, staff, and expenses of Public Service Commission
414 Functions of Public Service Commission
415 Power to extend functions of Public Service Commission

Chaplains

416 Provisions as to chaplains

General

417 Indemnity for past acts
418 Exemption of pensions from taxation in Burma.
419 Transitional provisions
420 Interpretation, &c

CHAPTER X

PROPERTY, CONTRACTS LIABILITIES AND SUITS

421 Provision as to existing Government property
422 Power to acquire property and to make contracts, &c
423 Suits and proceedings
424 Rights and liabilities of Secretary of State in Council

CHAPTER XI

MISCELLANEOUS PROVISIONS AS TO RELATIONS WITH INDIA

425 Financial settlement as between India and Burma
426 Provisions as to Customs duties &c
427 Relief in respect of tax on income taxable both in India and Burma
428 Provisions as to monetary system
429 Provisions as to immigration from India.

CHAPTER XII.

PROVISIONS IN EVENT OF FAILURE OF CONSTITUTIONAL MACHINERY.

Clause
430. Power of Governor to issue Proclamations.

CHAPTER XIII.

PROVISIONS AS TO SECRETARY OF STATE.

431. Advisers to Secretary of State.
432. Contributions from revenues of Burma to expenses of Secretary of State in certain circumstances.

CHAPTER XIV.

MISCELLANEOUS.

433. Power of His Majesty to delimit boundaries of Burma.
434. Provision as to pardon.
435. Persons not to be subjected to disability by reason of race, religion, &c.
436. Compulsory acquisition of land, &c.
437. Protection of privileges in respect of land revenue.
438. Courts of appeal in revenue matters.
439. Elections may be held in advance of the dates fixed for the commencement of this Part of this Act.
440. Continuation of existing laws.
441. Adaptation of existing laws.
442. Temporary financial provisions.
443. High Commissioner for Burma.
444. No proceedings to lie against Governor or Secretary of State.
445. Procedure as respects proposals for amendment of certain provisions of Act and Orders in Council.
446. Power of His Majesty to amend the Eleventh Schedule.
447. Orders in Council.
448. Interpretation.

PART XV.

COMMENCEMENT, REPEALS, &c.

449. Commencement.
450. Charge of expenses on revenues raised in Ind[illegible] Burma.
451. Repeals.

SCHEDULES

FIRST SCHEDULE—Composition of the Federal Legislature

SECOND SCHEDULE—Provisions of this Act, the amendment whereof is not to affect the validity of the Instrument of Accession of a State

THIRD SCHEDULE—Provisions as to Governor General and Governors of Provinces

FOURTH SCHEDULE—Forms of Oaths or Affirmations

FIFTH SCHEDULE—Composition of Provincial Legislatures

SIXTH SCHEDULE—Excluded areas and partially excluded areas

SEVENTH SCHEDULE—Legislative Lists

EIGHTH SCHEDULE—The Federal Railway Authority

NINTH SCHEDULE—Provisions of Government of India Act continued in force with Amendments until the establishment of the Federation

TENTH SCHEDULE—Provisions as to Governor of Burma

ELEVENTH SCHEDULE—Areas in Burma to which Special Provisions apply

TWELFTH SCHEDULE—Composition of the Burma Legislature

THIRTEENTH SCHEDULE—Forms of Oaths or Affirmations

FOURTEENTH SCHEDULE—The Burma Railway Board

FIFTEENTH SCHEDULE—Enactments repealed

A

BILL

TO

Make further provision for the government of India. A D 1935

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled and by the authority of the same,
5 as follows —

PART I

INTRODUCTORY

1 This Act may be cited as the Government of India Act, 1935 Short title

10 2 —(1) All rights authority and jurisdiction heretofore belonging to His Majesty the King Emperor of India which appertain or are incidental to the government of his territories in India, and all rights authority and jurisdiction exercisable by him by treaty grant, usage
15 sufferance or otherwise, in or in relation to any other territories in India, are exercisable by His Majesty except in so far as may be otherwise provided by or under this Act, or as may be otherwise directed by His Majesty Government of India by the Crown

20 (2) The said rights, authority and jurisdiction shall include any rights, authority or jurisdiction heretofore exercisable in or in relation to any territories in India

A D 1935
PART I
—cont

by the Secretary of State, the Secretary of State in Council, the Governor General, the Governor General in Council, any Governor or any Local Government, whether by delegation from His Majesty or otherwise

The Governor General of India and His Majesty's Representative as regards relations with Indian States

3 —(1) The Governor General of India is appointed 5 by His Majesty by a Commission under the Royal Sign Manual and has—

(a) all such powers and duties as are conferred or imposed on him by or under this Act; and

(b) such other powers of His Majesty, not being 10 powers connected with the exercise of the functions of the Crown in its relations with Indian States, as His Majesty may be pleased to assign to him.

(2) His Majesty's Representative for the exercise of 15 the functions of the Crown in its relations with Indian States is appointed by His Majesty in like manner and has such powers and duties in connection with the exercise of those functions (not being powers or duties conferred or imposed by or under this Act on the 20 Governor General) as His Majesty may be pleased to assign to him.

(3) It shall be lawful for His Majesty to appoint one person to fill both the said offices

The Commander in Chief in India

4 There shall be a Commander in Chief of His 25 Majesty's Forces in India appointed by Warrant under the Royal Sign Manual

PART II

THE FEDERATION OF INDIA.

CHAPTER I. 30

ESTABLISHMENT OF FEDERATION AND ACCESSION OF INDIAN STATES

Proclamation of Federation of India.

5 —(1) It shall be lawful for His Majesty, if an address in that behalf has been presented to him by each House of Parliament and if the condition herein- 35 after mentioned is satisfied, to declare by Proclamation that as from the day therein appointed there shall be united in a Federation under the Crown, by the name of the Federation of India,—

(a) the Provinces hereinafter called Governors' 40 Provinces; and

(*b*) the Indian States which have acceded or may thereafter accede to the Federation;

and in the Federation so established there shall be included the Provinces hereinafter called Chief Commissioners' Provinces.

(2) The condition referred to is that States—

(*a*) the Rulers whereof, will, in accordance with the provisions contained in Part II of the First Schedule to this Act, be entitled to choose not less than fifty two members of the Council of State, and

(*b*) the aggregate population whereof, as ascertained in accordance with the said provisions, amounts to at least one half of the total population of the States as so ascertained,

have acceded to the Federation.

Accession of Indian States

6—(1) A State shall be deemed to have acceded to the Federation if His Majesty has signified his acceptance of a declaration made by the Ruler thereof, whereby the Ruler for himself, his heirs and successors—

(*a*) declares that he accepts this Act as applicable to his State and to his subjects, with the intent that His Majesty the King, the Governor-General of India, the Federal Legislature, the Federal Court and any other Federal authority established for the purposes of the Federation shall exercise in relation to his State and to his subjects such functions as may be vested in them by or under this Act,

(*b*) specifies which of the matters mentioned in the Federal Legislative List he accepts as matters with respect to which the Federal Legislature may make laws for his State and his subjects, and specifies any condition to which his acceptance of any such matter is to be deemed to be subject, and

(*c*) assumes the obligation of ensuring that due effect is given to this Act within his State

Provided that a declaration may be made conditionally on the establishment of the Federation

A.D. 1935
PART II
—*cont.*

on or before a specified date, and in that case the State shall not be deemed to have acceded to the Federation if the Federation is not established until after that date.

(2) A Ruler may by a supplementary declaration made to and accepted by His Majesty declare his willingness to accept conditionally or otherwise any other matter as a matter with respect to which the Federal Legislature may make laws in relation to his State and the subjects thereof, or his willingness to waive in whole or in part any condition specified in a previous declaration made by him.

(3) A declaration shall not be valid unless it is the declaration of the Ruler himself, but, subject as aforesaid, references in this Act to the Ruler of a State include references to any persons for the time being exercising the powers of the Ruler of the State whether by reason of the Ruler's minority or for any other reason.

(4) The validity of any declaration under this section shall not be affected by any amendment of the provisions of this Act mentioned in the Second Schedule to this Act, but no such amendment shall in any case be construed as extending to a Federated State without the concurrence of the Ruler of that State.

(5) After the establishment of the Federation the request of a Ruler that his State may be admitted to the Federation shall be transmitted to His Majesty through the Governor General, and after the expiration of twenty years from the establishment of the Federation, the Governor General shall not transmit to His Majesty any such request until there has been presented to him by each Chamber of the Federal Legislature, for submission to His Majesty, an address praying that His Majesty may be pleased to admit the State into the Federation.

(6) In this Act a State which has acceded to the Federation is referred to as a Federated State, and the declaration by virtue of which a State has so acceded, construed together with any supplementary declaration made under this section, is referred to as the Instrument of Accession of that State.

(7) An Instrument of Accession may contain provisions with respect to any subject not mentioned in this section, being a subject with respect to which this Act expressly authorises provision to be made by the
5 Instrument of Accession of a State

(8) All courts shall take judicial notice of every Instrument of Accession

(9) In this section the expression "the Federal Legislative List" means the list of matters with respect
10 to which under Part V of this Act, the Federal Legislature has, but a Provincial Legislature has not, power to make laws

CHAPTER II

THE FEDERAL EXECUTIVE

15 *The Governor General*

Functions of Governor General

7.—(1) Subject to the provisions of this Act the executive authority of the Federation shall be exercised on behalf of His Majesty by the Governor General either directly or through officers subordinate to him, but
20 nothing in this section shall prevent the Federal Legislature from conferring functions upon subordinate authorities or be deemed to transfer to the Governor General any functions conferred by any existing Indian Law on any court, judge or officer, or on any local or other
25 authority

(2) References in this Act to the functions of the Governor General shall be construed as references to his powers and duties in the exercise of the executive authority of the Federation and to any other powers
30 and duties conferred or imposed on him as Governor General by or under this Act, other than powers exercisable by him by reason that they have been assigned to him by His Majesty under Part I of this Act

35 (3) The provisions of the Third Schedule to this Act shall have effect with respect to the salary and allowances of the Governor General and the provision to be made for enabling him to discharge conveniently and with dignity the duties of his office

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A D 1935

Part II —cont

Extent of executive authority of the Federation

8. Subject to the provisions of this Act, the executive authority of the Federation extends—

(a) to the matters with respect to which the Federal Legislature has power to make laws;

(b) to the raising in British India on behalf of His Majesty of naval, military and air forces and to the governance of His Majesty's forces in India,

(c) to the exercise of such rights, authority and jurisdiction as are exercisable by His Majesty by treaty, grant, usage, sufferance, or otherwise in and in relation to the tribal areas.

Provided that—

(i) the said authority does not, save as expressly provided in this Act, extend in any Province to matters with respect to which the Provincial Legislature has power to make laws, or extend in any Federated State save to matters with respect to which the Federal Legislature has power to make laws which apply in that State,

(ii) the said authority does not extend to the enlistment or enrolment in any forces raised in India of any person unless he is either a subject of His Majesty or a native of India or of territories adjacent to India; and

(iii) commissions in any such force shall be granted by His Majesty save in so far as he may be pleased to delegate that power by virtue of the provisions of Part I of this Act or otherwise

Administration of Federal Affairs

Council of ministers

9—(1) There shall be a council of ministers, not exceeding ten in number to aid and advise the Governor General in the exercise of his functions, except in so far as he is by or under this Act required to exercise his functions or any of them in his discretion:

Provided that nothing in this subsection shall be construed as preventing the Governor General from exercising his individual judgment in any case where by or under this Act he is required so to do.

(2) The Governor-General in his discretion may preside at meetings of the council of ministers

(3) If any question arises whether any matter is or is not a matter as respects which the Governor General is by or under this Act required to act in his discretion or to exercise his individual judgment, the decision of the Governor-General in his discretion shall be final and the validity of anything done by the Governor General shall not be called in question on the ground that he ought or ought not to have acted in his discretion or ought or ought not to have exercised his individual judgment

Other provisions as to ministers

10.—(1) The Governor General s ministers shall be chosen and summoned by him shall be sworn as members of the council, and shall hold office during his pleasure

(2) A minister who for any period of six consecutive months is not a member of either Chamber of the Federal Legislature shall at the expiration of that period cease to be a minister

(3) The salaries of ministers shall be such as the Federal Legislature may from time to time by Act determine, and until the Federal Legislature so determine, shall be determined by the Governor General

Provided that the salary of a minister shall not be varied during his term of office

(4) The question whether any and, if so, what advice was tendered by ministers to the Governor General shall not be inquired into in any court

(5) The functions of the Governor-General with respect to the choosing and summoning, and the dismissal of ministers and with respect to the determination of their salaries shall be exercised by him in his discretion

Provisions as to external affairs defence and ecclesiastical affairs

5 **11.**—(1) The functions of the Governor General with respect to defence and ecclesiastical affairs and with respect to external affairs except the relations between the Federation and any part of His Majesty's dominions, shall be exercised by him in his discretion, and his functions in or in relation to the tribal areas shall be similarly exercised

(2) To assist him in the exercise of those functions the Governor General may appoint counsellors, not

A D 1935

Part II —cont

Extent of executive authority of the Federation

8 Subject to the provisions of this Act, the executive authority of the Federation extends—

(a) to the matters with respect to which the Federal Legislature has power to make laws,

(b) to the raising in British India on behalf of His Majesty of naval military and air forces and to the governance of His Majesty's forces in India,

(c) to the exercise of such rights authority and jurisdiction as are exercisable by His Majesty by treaty, grant usage, sufferance, or otherwise in and in relation to the tribal areas

Provided that—

(i) the said authority does not, save as expressly provided in this Act extend in any Province to matters with respect to which the Provincial Legislature has power to make laws or extend in any Federated State save to matters with respect to which the Federal Legislature has power to make laws which apply in that State,

(ii) the said authority does not extend to the enlistment or enrolment in any forces raised in India of any person unless he is either a subject of His Majesty or a native of India or of territories adjacent to India, and

(iii) commissions in any such force shall be granted by His Majesty save in so far as he may be pleased to delegate that power by virtue of the provisions of Part I of this Act or otherwise

Administration of Federal Affairs

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9 —(1) There shall be a council of ministers not exceeding ten in number, to aid and advise the Governor General in the exercise of his functions except in so far as he is by or under this Act required to exercise his functions or any of them in his discretion

Provided that nothing in this subsection shall be construed as preventing the Governor General from exercising his individual judgment in any case where by or under this Act he is required so to do

(2) The Governor General in his discretion may preside at meetings of the council of ministers

(3) If any question arises whether any matter is or is not a matter as respects which the Governor General is by or under this Act required to act in his discretion or to exercise his individual judgment, the decision of the Governor General in his discretion shall be final and the validity of anything done by the Governor General shall not be called in question on the ground that he ought or ought not to have acted in his discretion or ought or ought not to have exercised his individual judgment

Other provisions as to ministers

10.—(1) The Governor General s ministers shall be chosen and summoned by him shall be sworn as members of the council, and shall hold office during his pleasure

(2) A minister who for any period of six consecutive months is not a member of either Chamber of the Federal Legislature shall at the expiration of that period cease to be a minister

(3) The salaries of ministers shall be such as the Federal Legislature may from time to time by Act determine, and until the Federal Legislature so determine shall be determined by the Governor General

Provided that the salary of a minister shall not be varied during his term of office

(4) The question whether any and if so what advice was tendered by ministers to the Governor General shall not be inquired into in any court

(5) The functions of the Governor General with respect to the choosing and summoning and the dismissal of ministers and with respect to the determination of their salaries shall be exercised by him in his discretion

Provisions as to external affairs, defence and ecclesiastical affairs

11.—(1) The functions of the Governor General with respect to defence and ecclesiastical affairs and with respect to external affairs except the relations between the Federation and any part of His Majesty's dominions shall be exercised by him in his discretion and his functions in or in relation to the tribal areas shall be similarly exercised

(2) To assist him in the exercise of those functions the Governor General may appoint counsellors, not

A D 1935
PART II
—*cont*

exceeding three in number whose salaries and conditions of service shall be such as may be prescribed by His Majesty in Council

Special responsibilities of Governor General

12.—(1) In the exercise of his functions the Governor General shall have the following special responsibilities that is to say,— 5

(*a*) the prevention of any grave menace to the peace or tranquillity of India or any part thereof

(*b*) the safeguarding of the financial stability and credit of the Federal Government, 10

(*c*) the safeguarding of the legitimate interests of minorities

(*d*) the securing to members of the public services of any rights provided for them by or under this Act and the safeguarding of their legitimate 15 interests,

(*e*) the securing in the sphere of executive action of the purposes which the provisions of chapter III of Part V of this Act are designed to secure in relation to legislation 20

(*f*) the prevention of action which would subject goods of United Kingdom or Burmese origin imported into India to discriminatory or penal treatment

(*g*) the protection of the rights of any Indian 25 State

(*h*) the securing that the due discharge of his functions with respect to matters with respect to which he is by or under this Act required to act in his discretion, or to exercise his individual 30 judgment is not prejudiced or impeded by any course of action taken with respect to any other matter

(2) If and in so far as any special responsibility of the Governor General is involved, he shall, in the exercise 35 of his functions, exercise his individual judgment as to the action to be taken

Provisions as to Instrument of Instructions.

13—(1) The Secretary of State shall lay before Parliament the draft of any Instrument of Instructions (including any Instrument amending or revoking an Instru- 40 ment previously issued) which it is proposed to recommend His Majesty to issue to the Governor General,

and no further proceedings shall be taken in relation thereto except in pursuance of an address presented to His Majesty by both Houses of Parliament praying that the Instrument may be issued

(2) The validity of anything done by the Governor-General shall not be called in question on the ground that it was done otherwise than in accordance with any Instrument of Instructions issued to him

Superintendence of Secretary of State

14. In so far as the Governor General is by or under this Act required to act in his discretion or to exercise his individual judgment he shall subject to the provisions of any Instrument of Instructions issued to him by His Majesty be under the general control of and comply with such particular directions if any, as may from time to time be given to him by the Secretary of State but the validity of anything done by the Governor General shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this section

Financial adviser to Governor General

15.—(1) The Governor General may appoint a person to be his financial adviser

(2) It shall be the duty of the Governor General s financial adviser to assist by his advice the Governor General in the discharge of his special responsibility for safeguarding the financial stability and credit of the Federal Government and also to give advice to the Federal Government upon any matter relating to finance with respect to which he may be consulted

(3) The Governor General s financial adviser shall hold office during the pleasure of the Governor General and the salary and allowances of the financial adviser and the numbers of his staff and their conditions of service shall be such as the Governor General may determine

(4) The powers of the Governor General with respect to the appointment and dismissal of a financial adviser and with respect to the determination of his salary and allowances and the numbers of his staff and their conditions of service shall be exercised by him in his discretion

Provided that if the Governor-General has determined to appoint a financial adviser, he shall, before

A D 1935
PART II
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making any appointment other than the first appointment consult his ministers as to the person to be selected

Advocate General

16 —(1) The Governor General shall appoint a person to be Advocate General for the Federation

(2) It shall be the duty of the Advocate General to give advice to the Federal Government upon such legal matters and to perform such other duties of a legal character, as may be referred or assigned to him, and in the performance of his duties he shall have right of audience in all courts in British India and in any Federated State

(3) The Advocate General shall hold office during the pleasure of the Governor General and shall receive such remuneration as the Governor General may determine

(4) In exercising his powers with respect to the appointment and dismissal of the Advocate-General and with respect to the determination of his remuneration the Governor General shall exercise his individual judgment

Conduct of business of Federal Government

17 —(1) All executive action of the Federal Government shall be expressed to be taken in the name of the Governor General

(2) Orders and other instruments made and executed in the name of the Governor General shall be authenticated in such manner as may be specified in rules to be made by the Governor General, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that the making thereof was not duly authorised

(3) The Governor General shall make rules for the more convenient transaction of the business of the Federal Government and for the allocation among ministers of the said business in so far as it is not business with respect to which the Governor General is by or under this Act required to act in his discretion

(4) The rules shall include provisions requiring ministers and secretaries to Government to transmit to the Governor General all such information with respect to the business of the Federal Government as may be specified in the rules or as the Governor General may otherwise require to be so transmitted, and in particular

requiring a minister to bring to the notice of the Governor General, and the appropriate secretary to bring to the notice of the minister concerned and of the Governor General, any matter under consideration by him which involves, or appears to him likely to involve, any special responsibility of the Governor General

(5) In the discharge of his functions under this section the Governor General shall act in his discretion after consultation with his ministers

CHAPTER III

THE FEDERAL LEGISLATURE

General

Constitution of the Legislature

18.—(1) There shall be a Federal Legislature which shall consist of His Majesty, represented by the Governor General, and two Chambers to be known respectively as the Council of State and the House of Assembly (in this Act referred to as ' the Federal Assembly'')

(2) The Council of State shall consist of one hundred and fifty six representatives of British India and not exceeding one hundred and four representatives of the Indian States, and the Federal Assembly shall consist of two hundred and fifty representatives of British India and not more than one hundred and twenty five representatives of the Indian States

(3) The said representatives shall be chosen in accordance with the provisions in that behalf contained in the First Schedule to this Act

(4) The Council of State shall be a permanent body not subject to dissolution but as near as may be one third of the members thereof shall retire in every third year in accordance with the provisions in that behalf contained in the said First Schedule

(5) Every Federal Assembly unless sooner dissolved, shall continue for five years from the date appointed for their first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly

Sessions of the Legislature, prorogation and dissolution

19.—(1) The Chambers of the Federal Legislature shall be summoned to meet once at least in every year, and twelve months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session

A.D. 1935.
PART II.
—*cont.*

(2) Subject to the provisions of this section the Governor-General may in his discretion from time to time—

(*a*) summon the Chambers or either Chamber to meet at such time and place as he thinks fit;

(*b*) prorogue the Chambers;

(*c*) dissolve the Federal Assembly.

(3) The Chambers shall be summoned to meet for their first session on a day not later than such day as may be specified in that behalf in His Majesty's Proclamation establishing the Federation.

Right of Governor-General to address Chambers.

20.—(1) The Governor-General may in his discretion address either Chamber of the Federal Legislature or both Chambers assembled together, and for that purpose require the attendance of members.

(2) The Governor-General may in his discretion send messages to either Chamber of the Federal Legislature, and a Chamber to whom any message is so sent shall with all convenient despatch consider any matter which they are required by the message to take into consideration.

Rights of ministers and counsellors as respects Chambers.

21. Every minister and every counsellor shall have the right to speak in, and otherwise to take part in the proceedings of, either Chamber, any joint sitting of the Chambers, and any committee of the Legislature of which he may be named a member, but shall not by virtue of this section be entitled to vote.

Election of officers of Chambers.

22.—(1) The Council of State shall, as soon as may be, choose two members of the Council to be respectively President and Deputy President thereof and, so often as the office of President or Deputy President becomes vacant, the Council shall choose another member to be President or Deputy President, as the case may be.

(2) A member holding office as President or Deputy President of the Council of State shall vacate his office if he ceases to be a member of the Council, may at any time resign his office by writing under his hand addressed to the Governor-General, and may be removed from his office by a resolution of the Council passed by a majority of all the then members of the Council, but no resolution for the purpose of this subsection shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution.

(3) While the office of President is vacant the duties of the office shall be performed by the Deputy-President, or if the office of Deputy President is also vacant, by such member of the Council as the Governor General may in his discretion appoint for the purpose, and during any absence of the President from any sitting of the Council, the Deputy President or, if he is also absent, such person as may be determined by the rules of procedure of the Council or, if no such person is present, such other person as may be determined by the Council, shall act as President

(4) There shall be paid to the President and the Deputy President of the Council of State such salaries as may be respectively fixed by Act of the Federal Legislature, and until provision in that behalf is so made such salaries as were respectively payable immediately before the establishment of the Federation to the President and the Deputy President of the Council of State of the Indian Legislature

(5) The foregoing provisions of this section shall apply in relation to the Federal Assembly as they apply in relation to the Council of State with the substitution of the titles "Speaker and "Deputy Speaker" for the titles "President and "Deputy President respectively and with the substitution of references to the Assembly and to the Legislative Assembly of the Indian Legislature for references to the Council and to the Council of State or the Indian Legislature

Provided that without prejudice to the provisions of subsection (2) of this section as applied by this subsection whenever the Assembly is dissolved the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution

Voting in Chambers power of Chambers to act notwithstanding vacancies and quorum

23.—(1) Save as provided in the last preceding section all questions at any sitting or joint sitting of the Chambers shall be determined by a majority of votes of the members present and voting other than the President or Speaker or person acting as such

The President or Speaker or person acting as such shall not vote in the first instance but shall have and exercise a casting vote in the case of an equality of votes

(2) A Chamber of the Federal Legislature shall have power to act notwithstanding any vacancy in the

membership thereof, and any proceedings in the Legislature shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do, sat or voted or otherwise took part in the proceedings.

(3) If at any time during a meeting of a Chamber less than one sixth of the total number of members of the Chamber are present it shall be the duty of the President or Speaker or person acting as such either to adjourn the Chamber or to suspend the meeting until at least one sixth of the members are present.

Provisions as to Members of Legislature.

Oath or affirmation of members.

24. Every member of either Chamber shall, before taking his seat make and subscribe before the Governor General or some person appointed by him, an oath according to that one of the forms set out in the Fourth Schedule to this Act which the member accepts as appropriate in his case.

Vacation of seats.

25.—(1) No person shall be a member of both Chambers and rules made by the Governor General shall provide for the vacation by a person who is chosen a member of both Chambers of his seat in one Chamber or the other.

(2) If a member of either Chamber—

(a) ceases to possess any of the qualifications which he was under the provisions of the First Schedule to this Act required to possess when he was chosen a member of the Chamber, or

(b) becomes subject to any of the disqualifications mentioned in subsection (1) of the next succeeding section, or

(c) by writing under his hand addressed to the Governor General resigns his seat,

his seat shall thereupon become vacant.

(3) If for sixty days a member of either Chamber is without permission of the Chamber absent from all meetings thereof, the Chamber may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Chamber is prorogued, or is adjourned for more than four consecutive days.

Disqualifications for membership.

26.—(1) A person shall be disqualified for being chosen as and for being, a member of either Chamber—

(*a*) if he holds any office of profit under the Crown in India other than an office declared by Act of the Federal Legislature not to disqualify its holder,

(*b*) if he is of unsound mind and stands so declared by a competent court,

(*c*) if he is an undischarged insolvent,

(*d*) if whether before or after the establishment of the Federation, he has been convicted, or has, in proceedings for questioning the validity or regularity of an election, been found to have been guilty, of any offence relating to elections which has been declared by Order in Council or by an Act of the Federal Legislature to be an offence conviction whereof is a disqualification for membership of the Legislature, unless such period has elapsed as may be specified in that behalf by the provisions of that Order or Act,

(*e*) if, whether before or after the establishment of the Federation, he has been convicted of any other offence by a court in British India or in a State which is a Federated State and sentenced to transportation or to imprisonment for a period exceeding twelve months, unless a period of five years, or such less period as the Governor-General, acting in his discretion, may allow in any particular case, has elapsed since his release

(2) A person shall not be capable of being chosen a member of either Chamber while he is serving a sentence of transportation or of imprisonment for a criminal offence

(3) Where a person who, by virtue of a conviction or a conviction and a sentence becomes disqualified by virtue of paragraph (*d*) or paragraph (*e*) of sub section (1) of this section is at the date of the disqualification a member of the Legislature, his seat shall notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence, until that appeal or petition is disposed of, but during any period

A D 1935
PART II
—*cont*

during which his membership is preserved by this sub section he shall not sit or vote

(4) For the purposes of this section a person shall not be deemed to hold an office of profit under the Crown in India by reason only that—

(*a*) he is a minister either for the Federation or for a Province, or

(*b*) while serving a State he remains a member of one of the services of the Crown in India and retains all or any of his rights as such

Penalty for sitting and voting when not qualified or disqualified

27. If a person sits or votes as a member of either Chamber when he is not qualified or is disqualified for membership thereof or when he is prohibited from so doing by the provisions of subsection (3) of the last preceding section he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Federation

Privileges &c of members

28.—(1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Federal Legislature there shall be freedom of speech in the Legislature and no member of the Legislature shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either Chamber of the Legislature of any report, paper, votes or proceedings

(2) In other respects, the privileges of members of the Chambers shall be such as may from time to time be defined by Act of the Federal Legislature and, until so defined shall be such as were immediately before the establishment of the Federation enjoyed by the members of the Indian Legislature

(3) Nothing in any existing Indian Act, and notwithstanding anything in the foregoing provisions of this section, nothing in this Act, shall be construed as conferring or empowering the Federal Legislature to confer, on either Chamber or on both Chambers sitting together, or on any committee or officer of the Legislature, the status of a court or any power to compel the attendance for any purpose of any person before either Chamber or before both Chambers sitting together

or before any committee or officer of the Legislature, or any punitive or disciplinary powers other than a power to remove or exclude persons infringing the rules or standing orders, or otherwise behaving in a disorderly manner

A D 1935
PART II —cont

For the purposes of this subsection an enactment of the Federal Legislature providing for the punishment of persons who refuse to attend as aforesaid shall be deemed to be an enactment conferring power to compel the attendance of persons

(4) The provisions of subsections (1) and (2) of this section shall apply in relation to persons who by virtue of this Act have the right to speak in, and otherwise take part in the proceedings of a Chamber as they apply in relation to members of the Legislature

Salaries and allowances of members

29. Members of either Chamber shall be entitled to receive such salaries and allowances as may from time to time be determined by Act of the Federal Legislature and until provision in that respect is so made allowances at such rates and upon such conditions as were immediately before the date of the establishment of the Federation applicable in the case of members of the Legislative Assembly of the Indian Legislature

Legislative Procedure

Provisions as to introduction and passing of Bills

30.—(1) Subject to the special provisions of this Part of this Act with respect to financial Bills a Bill may originate in either Chamber

(2) Subject to the provisions of the next succeeding section, a Bill shall not be deemed to have been passed by the Chambers of the Legislature unless it has been agreed to by both Chambers either without amendment or with such amendments only as are agreed to by both Chambers

(3) A Bill pending in the Legislature shall not lapse by reason of the prorogation of the Chambers

(4) A Bill pending in the Council of State which has not been passed by the Federal Assembly shall not lapse on a dissolution of the Assembly

(5) A Bill which is pending in the Federal Assembly or which having been passed by the Federal Assembly is pending in the Council of State shall, subject to the provisions of the next succeeding section, lapse on a dissolution of the Assembly

A D 1935

PART II —cont

Joint sittings of both Chambers in certain cases

31 —(1) If after a Bill has been passed by one Chamber and transmitted to the other Chamber—

(a) the Bill is rejected by the other Chamber or

(b) the Chambers have finally disagreed as to the amendments to be made in the Bill, or

(c) more than six months elapse from the date of the reception of the Bill by the other Chamber without the Bill being presented to the Governor General for his assent

the Governor General may unless the Bill has lapsed by reason of a dissolution of the Assembly notify to the Chambers by message if they are sitting or by public notification if they are not sitting his intention to summon them to meet in a joint sitting for the purpose of deliberating and voting on the Bill

Provided that if it appears to the Governor General that the Bill relates to finance or to any matter which affects the discharge of his functions in so far as he is by or under this Act required to act in his discretion or to exercise his individual judgment he may so notify the Chambers notwithstanding that there has been no rejection of or final disagreement as to the Bill and notwithstanding that the said period of six months has not elapsed if he is satisfied that there is no reasonable prospect of the Bill being presented to him for his assent without undue delay

In reckoning any such period of six months as is referred to in this subsection no account shall be taken of any time during which the Legislature is prorogued or during which both Chambers are adjourned for more than four days

(2) Where the Governor General has notified his intention of summoning the Chambers to meet in a joint sitting neither Chamber shall proceed further with the Bill but the Governor General may at any time in the next session after the expiration of six months from the date of his notification summon the Chambers to meet in a joint sitting for the purpose specified in his notification and if he does so the Chambers shall meet accordingly

Provided that if it appears to the Governor General that the Bill is such a Bill as is mentioned in the proviso

to subsection (1) of this section, he may summon the Chambers to meet in a joint sitting for the purpose aforesaid at any date, whether in the same session or in the next session

(3) The functions of the Governor General under the provisos to the two last preceding subsections shall be exercised by him in his discretion

(4) If at the joint sitting of the two Chambers the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Chambers present and voting, it shall be deemed for the purposes of this Act to have been passed by both Chambers

Provided that at a joint sitting—

(*a*) if the Bill, having been passed by one Chamber has not been passed by the other Chamber with amendments and returned to the Chamber in which it originated, no amendment shall be proposed to the Bill other than such amendments (if any) as are made necessary by the delay in the passage of the Bill,

(*b*) if the Bill has been so passed and returned only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Chambers have not agreed,

and the decision of the person presiding as to the amendments which are admissible under this subsection shall be final

(5) A joint sitting may be held under this section and a Bill passed thereat notwithstanding that a dissolution of the Assembly has intervened since the Governor-General notified his intention to summon the Chambers to meet therein

Assent to Bills and disallowance by His Majesty

32.—(1) When a Bill has been passed by the Chambers it shall be presented to the Governor General, and the Governor-General shall in his discretion declare either that he assents in His Majesty's name to the Bill, or that he withholds assent therefrom, or that he reserves the Bill for the signification of His Majesty's pleasure:

A.D. 1935
Part II.
—cont.

Provided that the Governor-General may in his discretion return the Bill to the Chambers with a message requesting that they will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message, and the Chambers shall reconsider the Bill accordingly. 5

(2) A Bill reserved for the signification of His Majesty's pleasure shall not become an Act of the Federal Legislature unless and until, within twelve months from the day on which it was presented to the Governor-General, the Governor-General makes known by public notification that His Majesty has assented thereto. 10

(3) Any Act assented to by the Governor-General may be disallowed by His Majesty within twelve months from the day of the Governor-General's assent, and where any Act is so disallowed the Governor-General shall forthwith make the disallowance known by public notification, and as from the date of the notification the Act shall become void. 15 20

Procedure in Financial matters.

Annual financial statement.

33.—(1) The Governor-General shall in respect of every financial year cause to be laid before both Chambers of the Federal Legislature a statement of the estimated receipts and expenditure of the Federation for that year, in this Part of this Act referred to as the "annual financial statement." 25

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(*a*) the sums required to meet expenditure described by this Act as expenditure charged upon the revenues of the Federation; and 30

(*b*) the sums required to meet other expenditure proposed to be made from the revenues of the Federation, 35

and shall distinguish expenditure on revenue account from other expenditure, and indicate the sums, if any, which are included solely because the Governor-General has directed their inclusion as being necessary for the due discharge of any of his special responsibilities. 40

(3) The following expenditure shall be expenditure charged on the revenues of the Federation —

(*a*) the salary and allowances of the Governor-General and other expenditure relating to his office for which provision is required to be made by Order in Council,

(*b*) debt charges for which the Federation is liable, including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt,

(*c*) the salaries and allowances of ministers, of counsellors, of the financial adviser, of the advocate general, of chief commissioners, of the personal and secretarial staffs of the Governor-General and of the staff of the financial adviser,

(*d*) the salaries, allowances, and pensions payable to or in respect of judges of the Federal Court, and the pensions payable to or in respect of judges of any High Court,

(*e*) expenditure for the purpose of the discharge by the Governor General of his functions with respect to defence and ecclesiastical affairs, his functions with respect to external affairs in so far as he is by or under this Act required in the exercise thereof to act in his discretion, his functions in or in relation to tribal areas, and his functions in relation to the administration of any territory in the direction and control of which he is under this Act required to act in his discretion provided that the sum so charged in any year in respect of expenditure on ecclesiastical affairs shall not exceed forty-two lakhs of rupees, exclusive of pension charges,

(*f*) the sums payable to His Majesty under this Act out of the revenues of the Federation in respect of the expenses incurred in discharging the functions of the Crown in its relations with Indian States,

(*g*) any grants for purposes connected with the administration of any areas in a Province which are for the time being excluded areas,

A.D 1935
PART II
—cont

(h) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal,

(i) any other expenditure declared by this Act or any Act of the Federal Legislature to be so charged 5

(4) Any question whether any proposed expenditure falls within a class of expenditure charged on the revenues of the Federation shall be decided by the Governor General in his discretion

Procedure of Legislature with respect to estimates

34.—(1) So much of the estimates of expenditure 10 as relates to expenditure charged upon the revenues of the Federation shall not be submitted to the vote of the Legislature but nothing in this subsection shall be construed as preventing the discussion in either Chamber of the Legislature of any of those estimates other than 15 estimates relating to expenditure referred to in sub-paragraph (a) or sub paragraph (f) of subsection (3) of the last preceding section

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands 20 for grants to the Federal Assembly and thereafter to the Council of State, and either Chamber shall have power to assent or to refuse to assent to any demand or to assent to any demand subject to a reduction of the amount specified therein 25

Provided that where the Assembly have refused to assent to any demand that demand shall not be submitted to the Council of State, unless the Governor General so directs and where the Assembly have assented to a demand subject to a reduction of the amount specified 30 therein a demand for the reduced amount only shall be submitted to the Council of State unless the Governor-General otherwise directs, and where in either of the said cases, such a direction is given the demand submitted to the Council of State shall be for such amount, not being 35 a greater amount than that originally demanded as may be specified in the direction

(3) If the Chambers differ with respect to any demand the Governor General shall summon the two Chambers to meet in a joint sitting for the purpose 40 of deliberating and voting on the demand as to which they disagree, and the decision of the majority of the

members of both Chambers present and voting shall be deemed to be the decision of the two Chambers

(4) No demand for a grant shall be made except on the recommendation of the Governor General

Authentication of schedule of authorised expenditure

35.—(1) The Governor-General shall authenticate by his signature a schedule specifying—

(*a*) the grants made by the Chambers under the last preceding section,

(*b*) the several sums required to meet the expenditure charged on the revenues of the Federation but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Legislature

Provided that if the Chambers have not assented to any demand for a grant or have assented subject to a reduction of the amount specified therein the Governor-General may, if in his opinion the refusal or reduction would affect the due discharge of any of his special responsibilities, include in the schedule such additional amount, if any, not exceeding the amount of the rejected demand or the reduction, as the case may be, as appears to him necessary in order to enable him to discharge that responsibility

(2) The schedule so authenticated shall be laid before both Chambers but shall not be open to discussion or vote therein

(3) Subject to the provisions of the next succeeding section, no expenditure from the revenues of the Federation shall be deemed to be duly authorised unless it is specified in the schedule so authenticated

Supplementary statement of expenditure.

36 If in respect of any financial year further expenditure from the revenues of the Federation becomes necessary over and above the expenditure theretofore authorised for that year, the Governor General shall cause to be laid before both Chambers of the Federal Legislature a supplementary statement showing the estimated amount of that expenditure and the provision of the preceding sections shall have effect in relation to that statement and that expenditure as they have effect in

A.D 1935
PART II —*cont*

relation to the annual financial statement and the expenditure mentioned therein

Special provisions as to financial Bills

37.—(1) A Bill or amendment making provision—

(*a*) for imposing or increasing any tax or impost, whether local or general, or

(*b*) for authorising the borrowing of money or the giving of any guarantee by the Federal Government or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Federal Government, or

(*c*) for declaring any expenditure to be expenditure charged on the revenues of the Federation, or for increasing the amount of any such expenditure

shall not be introduced or moved except on the recommendation of the Governor General and a Bill making such provision shall not be introduced in the Council of State

(2) A Bill or amendment shall not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties or for the demand or payment of fees for licences or fees for services rendered

(3) A Bill which, if enacted and brought into operation, would involve expenditure from the revenues of the Federation shall not be passed by either Chamber unless the Governor General has recommended to that Chamber the consideration of the Bill

Procedure generally

Rules of procedure

38.—(1) Each Chamber of the Federal Legislature may make rules for regulating, subject to the provisions of this Act, their procedure and the conduct of their business

Provided that as regards each Chamber the Governor-General shall in his discretion after consultation with the President or the Speaker, as the case may be, make rules—

(*a*) for regulating the procedure of and the conduct of business in, the Chamber in relation to any

matter which affects the discharge of his functions in so far as he is by or under this Act required to act in his discretion or to exercise his individual judgment,

(b) for securing the timely completion of financial business,

(c) for prohibiting the discussion of, or the asking of questions on, any matter connected with any Indian State, other than a matter with respect to which the Federal Legislature has power to make laws in relation to that State, unless the Governor-General in his discretion is satisfied that the matter affects Federal interests or affects a British subject, and has given his consent to the matter being discussed or the question being asked,

(d) for prohibiting, save with the consent of the Governor General in his discretion,—

(i) the discussion of, or the asking of questions on, any matter affecting relations between His Majesty or the Governor General and any foreign State or Prince, or

(ii) the discussion except in relation to estimates of expenditure of or the asking of questions on the administration of any excluded area or

(iii) the discussion of or the asking of questions on any action taken in his discretion by the Governor General in relation to the affairs of a Province,

and if and in so far as any rule so made by the Governor General is inconsistent with any rule made by a Chamber, the rule made by the Governor General shall prevail

(2) The Governor General after consultation with the President of the Council of State and the Speaker of the Legislative Assembly may make rules as to the procedure with respect to joint sittings of, and communications between, the two Chambers

The said rules shall make such provision for the purposes specified in the proviso to the preceding sub section as the Governor General in his discretion may think fit

A D 1935
PART II
—*cont*

(3) Until rules are made under this section the rules of procedure and standing orders in force immediately before the establishment of the Federation with respect to the Indian Legislature shall have effect in relation to the Federal Legislature subject to such modifications and adaptations as may be made therein by the Governor General in his discretion

(4) At a joint sitting of the two Chambers the President of the Council of State or in his absence such person as may be determined by rules of procedure made under this section shall preside

English to be used in the Federal Legislature

39. All proceedings in the Federal Legislature shall be conducted in the English language

Provided that the rules of procedure of each Chamber and the rules with respect to joint sittings shall provide for enabling persons unacquainted or not sufficiently acquainted, with the English language to use another language

Restrictions on discussion

40.—(1) No discussion shall take place in the Federal Legislature with respect to the conduct of any judge of the Federal Court or a High Court in the performance of his judicial functions

(2) If the Governor General in his discretion certifies that the discussion of a Bill introduced or proposed to be introduced in the Federal Legislature or of any specified clause of a Bill, or of any amendment moved or proposed to be moved to a Bill would affect the discharge of his special responsibility for the prevention of any grave menace to the peace or tranquillity of India or any part thereof, he may in his discretion direct that no proceedings, or no further proceedings shall be taken in relation to the Bill clause or amendment and effect shall be given to the direction

Courts not to inquire into proceedings of the Legislature

41—(1) The validity of any proceedings in the Federal Legislature shall not be called in question on the ground of any alleged irregularity of procedure

(2) No officer or other member of the Legislature in whom powers are vested by or under this Act for regulating procedure or the conduct of business, or for maintaining order in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers

CHAPTER IV

LEGISLATIVE POWERS OF GOVERNOR GENERAL

Power of Governor General to promulgate ordinances during recess of Legislature

42.—(1) If at any time when the Federal Legislature is not in session the Governor General is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such ordinances as the circumstances appear to him to require

Provided that the Governor General—

(*a*) shall exercise his individual judgment as respects the promulgation of any ordinance under this section if a Bill containing the same provisions would under this Act have required his previous sanction to the introduction thereof into the Legislature and

(*b*) shall not, without instructions from His Majesty, promulgate any such ordinance if he would have deemed it necessary to reserve a Bill containing the same provisions for the signification of His Majesty's pleasure thereon

(2) An ordinance promulgated under this section shall have the same force and effect as an Act of the Federal Legislature assented to by the Governor General, but every such ordinance—

(*a*) shall be laid before the Federal Legislature and shall cease to operate at the expiration of six weeks from the re assembly of the Legislature, or, if before the expiration of that period *resolutions disapproving it are passed by* both Chambers, upon the passing of the second of those resolutions,

(*b*) shall be subject to the provisions of this Act relating to the power of His Majesty to disallow Acts as if it were an Act of the Federal Legislature assented to by the Governor General, and

(*c*) may be withdrawn at any time by the Governor-General

(3) If and so far as an ordinance under this section makes any provision which the Federal Legislature would not under this Act be competent to enact, it shall be void.

A D 1935

Part II —*cont*

Power of Governor General to promulgate ordinances with respect to certain subjects

43.—(1) If at any time the Governor-General is satisfied that circumstances exist which render it necessary for him to take immediate action for the purpose of enabling him satisfactorily to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment, he may promulgate such ordinances as in his opinion the circumstances of the case require

(2) An ordinance promulgated under this section shall continue in operation for such period not exceeding six months as may be specified therein, but may by a subsequent ordinance be extended for a further period not exceeding six months

(3) An ordinance promulgated under this section shall have the same force and effect as an Act of the Federal Legislature assented to by the Governor General, but every such ordinance—

(*a*) shall be subject to the provisions of this Act relating to the power of His Majesty to disallow Acts as if it were an Act of the Federal Legislature assented to by the Governor-General,

(*b*) may be withdrawn at any time by the Governor-General, and

(*c*) if it is an ordinance extending a previous ordinance for a further period, shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament

(4) If and so far as an ordinance under this section makes any provision which the Federal Legislature would not under this Act be competent to enact, it shall be void

(5) The functions of the Governor General under this section shall be exercised by him in his discretion

Power of Governor General in certain circumstances to enact Acts

44.—(1) If at any time it appears to the Governor-General that for the purpose of enabling him satisfactorily to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment, it is essential that provision should be made by legislation,

he may by message to both Chambers of the Legislature explain the circumstances which in his opinion render legislation essential and shall attach to any such message a draft of the Bill which he considers necessary

A D 1935. PART II —*cont*

(2) At any time after the expiration of one month the Governor General may enact, as a Governor General's Act, the Bill proposed by him to the Chambers either in the form of the draft communicated to them or with such amendments as he deems necessary, but before so doing he shall consider any address which may have been presented to him within the said period by either Chamber with reference to the Bill or to amendments suggested to be made therein

(3) A Governor General's Act shall have the same force and effect, and shall be subject to disallowance in the same manner as an Act of the Federal Legislature assented to by the Governor General, and if and in so far as a Governor General's Act makes any provision which the Federal Legislature would not under this Act be competent to enact it shall be void

(4) Every Governor General's Act shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament

(5) The functions of the Governor General under this section shall be exercised by him in his discretion

CHAPTER V

PROVISIONS IN CASE OF FAILURE OF CONSTITUTIONAL MACHINERY

Power of Governor General to issue Proclamations

45.—(1) If at any time the Governor General is satisfied that a situation has arisen in which the government of the Federation cannot be carried on in accordance with the provisions of this Act he may by Proclamation—

(*a*) declare that his functions shall to such extent as may be specified in the Proclamation be exercised by him in his discretion

(*b*) assume to himself all or any of the powers vested in or exercisable by any Federal body or authority,

A D 1935
PART II
—cont

and any such Proclamation may contain such incidental and consequential provisions as may appear to him to be necessary or desirable for giving effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Act relating to any Federal body or authority 5

Provided that nothing in this subsection shall authorise the Governor General to assume to himself any of the powers vested in or exercisable by the Federal Court or to suspend either in whole or in part, the operation of any provision of this Act relating to the Federal Court 10

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation

(3) A Proclamation issued under this section— 15

(*a*) shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament,

(*b*) unless it is a Proclamation revoking a previous Proclamation shall cease to operate at the expiration of six months unless before the expiration of that period it has been approved by Resolutions of both Houses of Parliament 20

(4) The functions of the Governor-General under this section shall be exercised by him in his discretion 25

PART III

THE GOVERNORS' PROVINCES

CHAPTER I.

THE PROVINCES 30

Governors Provinces

46.—(1) Subject to the provisions of the next succeeding section with respect to Berar, the following shall be Governors' Provinces, that is to say, Madras, Bombay, Bengal, the United Provinces, the Punjab, Bihar, the Central Provinces and Berar, Assam, the North West Frontier Province, Orissa, Sind, and such other Governors' Provinces as may be created under this Act 35

(2) Burma shall cease to be part of India

(3) In this Act the expression "Province" means, unless the context otherwise requires, a Governor's Province, and "Provincial" shall be construed accordingly

Provisions as to Berar

5 **47** Whereas certain territory (in this Act referred to as "Berar") is under the sovereignty of His Exalted Highness the Nizam of Hyderabad, but is, at the date of the passing of this Act by virtue of certain agreements subsisting between His Majesty and His Exalted Highness, 10 administered together with the Central Provinces

And whereas it is in contemplation that an agreement shall be concluded between His Majesty and His Exalted Highness whereby notwithstanding the continuance of the sovereignty of His Exalted Highness 15 over Berar, the Central Provinces and Berar may be governed together as one Governor's Province under this Act by the name of the Central Provinces and Berar

Now, therefore,—

20 (1) While any such agreement is in force—

(*a*) Berar and the Central Provinces shall, notwithstanding the continuance of the sovereignty of His Exalted Highness be deemed to be one Governor's Province 25 by the name of the Central Provinces and Berar,

(*b*) any reference in this Act or in any other Act to British India shall be construed as a reference to British India and 30 Berar and any reference in this Act to subjects of His Majesty shall except for the purposes of any oath of allegiance be deemed to include a reference to Berari subjects of His Exalted Highness

35 (*c*) the provision made under this Act with respect to the qualifications of the voters for the Provincial Legislature of the Central Provinces and Berar shall be such as to give effect to any provisions with 40 respect to those matters contained in the agreement

(2) If no such agreement is concluded or if such an agreement is concluded but subsequently

A.D 1935

PART III —*cont*

ceases to have effect, references in this Act to the Central Provinces and Berar shall be construed as references to the Central Provinces and His Majesty in Council may make such consequential modifications in the provisions of this Act relating to the Central Provinces as he thinks proper

CHAPTER II

THE PROVINCIAL EXECUTIVE

The Governor

Appointment of Governor

48 —(1) The Governor of a Province is appointed by His Majesty by a Commission under the Royal Sign Manual

(2) The provisions of the Third Schedule to this Act shall have effect with respect to the salary and allowances of the Governor and the provision to be made for enabling him to discharge conveniently and with dignity the duties of his office

Functions of Governor

49 —(1) The executive authority of a Province shall be exercised on behalf of His Majesty by the Governor either directly or through officers subordinate to him but nothing in this section shall prevent the Federal or the Provincial Legislature from conferring functions upon subordinate authorities or be deemed to transfer to the Governor any functions conferred by any existing Indian law on any court judge or officer or any local or other authority

(2) Subject to the provisions of this Act the executive authority of each Province extends to the matters with respect to which the Legislature of the Province has power to make laws

Administration of Provincial Affairs

Council of ministers

50 —(1) There shall be a council of ministers to aid and advise the Governor in the exercise of his functions except in so far as he is by or under this Act required to exercise his functions or any of them in his discretion

Provided that nothing in this subsection shall be construed as preventing the Governor from exercising his individual judgment in any case where by or under this Act he is required so to do

(2) The Governor in his discretion may preside at meetings of the council of ministers

(3) If any question arises whether any matter is or is not a matter as respects which the Governor is by or
5 under this Act required to act in his discretion or to exercise his individual judgment the decision of the Governor in his discretion shall be final and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not
10 to have acted in his discretion or ought or ought not to have exercised his individual judgment

Other provisions as to ministers

51 —(1) The Governor s ministers shall be chosen and summoned by him shall be sworn as members of the council, and shall hold office during his pleasure

15 (2) A minister who for any period of six consecutive months is not a member of the Provincial Legislature shall at the expiration of that period cease to be a minister

(3) The salaries of ministers shall be such as the
20 Provincial Legislature may from time to time by Act determine, and until the Provincial Legislature so determine shall be determined by the Governor

Provided that the salary of a minister shall not be varied during his term of office

25 (4) The question whether any and if so what advice was tendered by ministers to the Governor shall not be inquired into in any court

(5) The functions of the Governor under this section with respect to the choosing and summoning and the
30 dismissal of ministers and with respect to the determination of their salaries shall be exercised by him in his discretion

Special responsibilities of Governor

52 —(1) In the exercise of his functions the Governor shall have the following special responsibilities that is
35 to say —

(*a*) the prevention of any grave menace to the peace or tranquillity of the Province or any part thereof

(*b*) the safeguarding of the legitimate interests of
40 minorities



A.D. 1935
PART III
—*cont.*

(*c*) the securing to members of the public services of any rights provided for them by or under this Act, and the safeguarding of their legitimate interests;

(*d*) the securing in the sphere of executive action of 5 the purposes which the provisions of chapter III of Part V of this Act are designed to secure in relation to legislation;

(*e*) the securing of the peace and good government of areas which by or under the provisions of this 10 Part of this Act are declared to be partially excluded areas;

(*f*) the protection of the rights of any Indian State; and

(*g*) the securing of the execution of orders or 15 directions lawfully issued to him under Part VI of this Act by the Governor-General in his discretion.

(2) The Governor of the Central Provinces and Berar shall also have the special responsibility of securing 20 that a reasonable share of the revenues of the Province is expended in or for the benefit of Berar, the Governor of Bengal and the Governor of Assam shall also have the special responsibility of securing that the due discharge of their functions in respect of excluded areas is not pre- 25 judiced or impeded by any course of action taken with respect to any other matter, the Governor of the North-West Frontier Province shall also have the special responsibility of securing that the due discharge of his functions in respect of tribal areas for which he is agent 30 to the Governor-General is not prejudiced or impeded by any course of action taken with respect to any other matter, and the Governor of Sind shall also have the special responsibility of securing the proper administration of the Sukkur Barrage Scheme. 35

(3) If and in so far as any special responsibility of the Governor is involved he shall, in the exercise of his functions, exercise his individual judgment as to the action to be taken.

Provisions as to Instrument of Instructions.

53.—(1) The Secretary of State shall lay before Parliament the draft of any Instructions (including any Instructions amending or revoking Instructions previously issued) which it is proposed to recommend
5 His Majesty to issue to the Governor of a Province, and no further proceedings shall be taken in relation thereto except in pursuance of an address presented to His Majesty by both Houses of Parliament praying that the Instructions may be issued

10 (2) The validity of anything done by the Governor of a Province shall not be called in question on the ground that it was done otherwise than in accordance with any Instrument of Instructions issued to him

Superintendence of Governor-General

54. In so far as the Governor of a Province is by
15 or under this Act required to act in his discretion or to exercise his individual judgment, he shall, subject to the provisions of any Instrument of Instructions issued to him by His Majesty, be under the general control of, and comply with such particular directions, if any as may
20 from time to time be given to him by the Governor-General in his discretion but the validity of anything done by a Governor shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this section

Advocate-General

25 55.—(1) The Governor of each Province shall appoint a person to be Advocate General for the Province

(2) It shall be the duty of the Advocate General to give advice to the Provincial Government upon such legal matters, and to perform such other duties of a
30 legal character, as may from time to time be referred or assigned to him

(3) The Advocate General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine

35 (4) In exercising his powers with respect to the appointment and dismissal of the Advocate General and with respect to the determination of his remuneration the Governor shall exercise his individual judgment

Provisions as to police rules

56. Where it is proposed that the Governor of a
40 Province should by virtue of any powers vested in him make or amend, or approve the making or amendment

A.D. 1935.

PART III —*cont.*

of any rules, regulations or orders relating to any police force, whether civil or military, he shall exercise his individual judgment with respect to the proposal, unless it appears to him that the proposal does not relate to or affect the organisation or discipline of that force.

Provisions as to crimes of violence intended to overthrow Government.

57.—(1) If it appears to the Governor of a Province that the peace or tranquillity of the Province is endangered by the operations of any persons committing, or conspiring, preparing or attempting to commit, crimes of violence which, in the opinion of the Governor, are intended to overthrow the government as by law established, the Governor may, if he thinks that the circumstances of the case require him so to do for the purpose of combating those operations, direct that his functions shall to such extent as may be specified in the direction be exercised by him in his discretion, and, until otherwise provided by a subsequent direction of the Governor, those functions shall to that extent be exercised by him accordingly.

(2) While any such direction is in force, the Governor may authorise an official to speak in and otherwise take part in the proceedings of the Legislature, and any official so authorised may speak in and take part accordingly in the proceedings of the Chamber or Chambers of the Legislature, any joint sitting of the Chambers, and any committee of the Legislature of which he may be named a member, but shall not be entitled to vote.

(3) The functions of the Governor under this section shall be exercised by him in his discretion.

(4) Nothing in this section affects the special responsibility of the Governor for the prevention of any grave menace to the peace or tranquillity of the Province or any part thereof.

Disclosure of sources of information.

58. The Governor in his discretion shall make rules for securing that no records or information relating to the sources from which information has been or may be obtained with respect to the operations of persons committing or conspiring, preparing or attempting to commit such crimes as are mentioned in the last preceding section, shall be disclosed or given by any officer of any police force in the Province to any member of that force except by direction of the Inspector-General of Police, or to any other person except by direction of the Governor in his discretion.

Conduct of business of Provincial Government

59.—(1) All executive action of the Government of a Province shall be expressed to be taken in the name of the Governor

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that the making thereof was not duly authorized

(3) The Governor shall make rules for the more convenient transaction of the business of the Provincial Government and for the allocation among ministers of the said business in so far as it is not business with respect to which the Governor is by or under this Act required to act in his discretion

(4) The rules shall include provisions requiring ministers and secretaries to Government to transmit to the Governor all such information with respect to the business of the Provincial Government as may be specified in the rules or as the Governor may otherwise require to be so transmitted, and in particular requiring a minister to bring to the notice of the Governor and the appropriate secretary to bring to the notice of the minister concerned and of the Governor any matter under consideration by him which involves or appears to him likely to involve, any special responsibility of the Governor

(5) In the discharge of his functions under this section the Governor shall act in his discretion after consultation with his ministers

CHAPTER III

THE PROVINCIAL LEGISLATURE

General

Constitution of the Legislature

60.—(1) There shall for every Province be a Provincial Legislature which shall consist of His Majesty represented by the Governor, and—

(*a*) in the Provinces of Madras Bombay Bengal, the United Provinces and Bihar two Chambers,

(*b*) in other Provinces one Chamber

A D 1935

Part III —cont

(2) Where there are two Chambers of a Provincial Legislature they shall be known respectively as the Legislative Council and the Legislative Assembly, and where there is only one Chamber, the Chamber shall be known as the Legislative Assembly 5

Composition of Chambers of Provincial Legislatures

61—(1) The composition of the Chamber or Chambers of the Legislature of a Province shall be such as is specified in relation to that Province in the Fifth Schedule to this Act

(2) Every Legislative Assembly of every Province unless sooner dissolved shall continue for five years from the date appointed for their first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Assembly

(3) Every Legislative Council shall be a permanent body not subject to dissolution but as near as may be one third of the members thereof shall retire in every third year in accordance with the provision in that behalf made in relation to the Province under the said Fifth Schedule

Sessions of the Legislature, prorogation and dissolution

62.—(1) The Chamber or Chambers of each Provincial Legislature shall be summoned to meet once at least in every year and twelve months shall not intervene between their last sitting in one session and the date appointed for their first sitting in the next session

(2) Subject to the provisions of this section the Governor may in his discretion from time to time—

(*a*) summon the Chambers or either Chamber to meet at such time and place as he thinks fit,

(*b*) prorogue the Chamber or Chambers,

(*c*) dissolve the Legislative Assembly

(3) The Chamber or Chambers shall be summoned to meet for the first session of the Legislature on a day not later than six months after the commencement of this Part of this Act

Right of Governor to address Chambers

63.—(1) The Governor may in his discretion address the Legislative Assembly or, in the case of a Province having a Legislative Council, either Chamber of the Provincial Legislature or both Chambers assembled together, and may for that purpose require the attendance of members

A D 1935
PART III —cont

(2) The Governor may in his discretion send messages to the Chamber or Chambers of the Provincial Legislature, and a Chamber to whom any message is so sent shall with all convenient dispatch consider any matter which they are required by the message to take into consideration

Rights of ministers as respects Chambers

64 Every minister shall have the right to speak in and otherwise take part in the proceedings of the Legislative Assembly of the Province or in the case of a Province having a Legislative Council both Chambers and any joint sitting of the Chambers and to speak in and otherwise take part in the proceedings of any committee of the Legislature of which he may be named a member but shall not by virtue of this section be entitled to vote

Election of officers of Chambers

65 —(1) Every Provincial Legislative Assembly shall as soon as may be choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof and so often as the office of Speaker or Deputy Speaker becomes vacant the Assembly shall choose another member to be Speaker or Deputy Speaker as the case may be

(2) A member holding office as Speaker or Deputy Speaker of an Assembly shall vacate his office if he ceases to be a member of the Assembly may at any time resign his office by writing under his hand addressed to the Governor and may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly but no resolution for the purpose of this subsection shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution

Provided that whenever the Assembly is dissolved the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution

(3) While the office of Speaker is vacant the duties of the office shall be performed by the Deputy Speaker or if the office of Deputy Speaker is also vacant by such member of the Assembly as the Governor may in his discretion appoint for the purpose and during any absence of the Speaker from any sitting of the Assembly the Deputy Speaker or if he is also absent such person as may be

A D 1935
Part III
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(2) Where there are two Chambers of a Provincial Legislature, they shall be known respectively as the Legislative Council and the Legislative Assembly, and where there is only one Chamber, the Chamber shall be known as the Legislative Assembly

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(2) Subject to the provisions of this section the Governor may in his discretion from time to time—

(*a*) summon the Chambers or either Chamber to meet at such time and place as he thinks fit,

(*b*) prorogue the Chamber or Chambers,

(*c*) dissolve the Legislative Assembly

(3) The Chamber or Chambers shall be summoned to meet for the first session of the Legislature on a day not later than six months after the commencement of this Part of this Act

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A D 1935
PART III
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Rights of ministers as respects Chambers

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(2) A member holding office as Speaker or Deputy Speaker of an Assembly shall vacate his office if he ceases to be a member of the Assembly may at any time resign his office by writing under his hand addressed to the Governor and may be removed from his office by a resolution of the Assembly passed by a majority of all the then members of the Assembly but no resolution for the purpose of this subsection shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution

Provided that whenever the Assembly is dissolved the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution

(3) While the office of Speaker is vacant the duties of the office shall be performed by the Deputy Speaker or if the office of Deputy Speaker is also vacant by such member of the Assembly as the Governor may in his discretion appoint for the purpose and during any absence of the Speaker from any sitting of the Assembly the Deputy Speaker or if he is also absent such person as may be

A D 1935

PART III
—*cont*

(*d*) if whether before or after the commencement of this Part of this Act he has been convicted or has in proceedings for questioning the validity or regularity of an election been found to hav been guilty of any offence relating to electio which has been declared by Order in Council or by an Act of the Provincial Legislature to t an offence conviction whereof is a disqualific tion for membership of the Legislature unle such period has elapsed as may be specified i that behalf in the provisions of that Ord or Act

(*e*) if whether before or after the commencemen of this Part of this Act he has been convicte of any other offence by a court in British Indi or in a State which is a Federated State an sentenced to transportation or to impriso ment for a period exceeding twelve month unless a period of five years or such less peri as the Governor acting in his discretion m allow in any particular case has elapsed sin his release

(2) A person shall not be capable of being chosen member of a Chamber of a Provincial Legislatu while he is serving a sentence of transportation or imprisonment for a criminal offence

(3) Where a person who by virtue of a convicti or a conviction and a sentence becomes disqualified virtue of paragraph (*d*) or paragraph (*e*) of subsection of this section is at the date of the disqualification member of a Chamber his seat shall notwithstandi anything in this of the last preceding section not beco vacant by reason of the disqualification until thi months have elapsed from the date thereof or if with those three months an appeal or petition for revision brought in respect of the conviction or the senten until that appeal or petition is disposed of but duri any period during which his membership is preserved this subsection he shall not sit or vote

(4) For the purposes of this section a person sh not be deemed to hold an office of profit under the Cro in India by reason only that he is a minister either for t Federation or for a Province

A D 1935
PART III
—*cont*

Penalty for sitting and voting when not qualified or disqualified

70. If a person sits or votes as a member of a Provincial Legislative Assembly or Legislative Council when he is not qualified or is disqualified for membership thereof, or when he is prohibited from so doing by the provisions of subsection (3) of the last preceding section, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Province

Privileges, &c of members

71.—(1) Subject to the provisions of this Act and to rules and standing orders regulating the procedure of the Legislature, there shall be freedom of speech in every Provincial Legislature and no member of the Legislature shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of a Chamber of such a Legislature of any report, paper, votes or proceedings

(2) In other respects the privileges of members of a Chamber of a Provincial Legislature shall be such as may from time to time be defined by Act of the Provincial Legislature and until so defined shall be such as were immediately before the commencement of this Part of this Act enjoyed by members of the Legislative Council of the Province

(3) Nothing in any existing Indian law and notwithstanding anything in the foregoing provisions of this section nothing in this Act shall be construed as conferring or empowering any Legislature to confer, on a Chamber thereof or on both Chambers sitting together or any committee or officer of the Legislature the status of a court or any power to compel the attendance of any person for any purpose before a Chamber or before both Chambers sitting together o before any committee or officer of the Legislature or an punitive or disciplinary powers other than the power t remove or exclude persons infringing the rules or standin orders or otherwise behaving in a disorderly manner

For the purposes of this subsection an enactmen providing for the punishment of persons who refus to attend as aforesaid shall be deemed to be an enactmen conferring power to compel attendance of persons

A D 1935
Part III
—cont

(4) The provisions of subsections (1) and (2) of this section shall apply in relation to persons who by virtue of this Act have the right to speak in and otherwise take part in the proceedings of a Chamber as they apply in relation to members of the Legislature.

Salaries and allowances of members

72. Members of Provincial Legislative Assemblies and Legislative Councils shall be entitled to receive such salaries and allowances as may from time to time be determined by Act of the Provincial Legislature, and until provision in that respect is so made allowances at such rates and upon such conditions as were immediately before the commencement of this Part of this Act applicable in the case of members of the Legislative Council of the Province

Legislative Procedure

Introduction of Bills &c

73.—(1) Subject to the special provisions of this Part of this Act with respect to financial Bills, a Bill may originate in either Chamber of the Legislature of a Province which has a Legislative Council

(2) A Bill pending in the Legislature of a Province shall not lapse by reason of the prorogation of the Chamber or Chambers thereof

(3) A Bill pending in the Legislative Council of a Province which has not been passed by the Legislative Assembly shall not lapse on a dissolution of the Assembly 2

(4) A Bill which is pending in the Legislative Assembly of a Province or which having been passed by the Legislative Assembly is pending in the Legislative Council shall lapse on a dissolution of the Assembly

Passing of Bills in Provinces having Legislative Councils

74.—(1) Subject to the provisions of this section, a 3 Bill shall not be deemed to have been passed by the Chambers of the Legislature of a Province having a Legislative Council unless it has been agreed to by both Chambers, either without amendments or with such amendments only as are agreed to by both Chambers 3

(2) If a Bill which has been passed by the Legislative Assembly and transmitted to the Legislative Council is not before the expiration of twelve months from its reception by the Council presented to the Governor for his assent the Governor may summon the Chambers 4 to meet in a joint sitting for the purpose of deliberating and voting on the Bill

A D 1935
PART III
cont

Provided that if it appears to the Governor that the Bill relates to finance or affects the discharge of any of his special responsibilities, he may summon the Chambers to meet in a joint sitting for the purpose aforesaid not-
5 withstanding that the said period of twelve months has not elapsed

The functions of the Governor under the proviso to this subsection shall be exercised by him in his discretion

(3) If at a joint sitting of the two Chambers
10 summoned in accordance with the provisions of this section the Bill, with such amendments, if any, as are agreed to in joint sitting, is passed by a majority of the total number of members of both Chambers present and voting, it shall be deemed for the purposes of this Act to
15 have been passed by both Chambers

Provided that at a joint sitting—

(*a*) unless the Bill has been passed by the Legislative Council with amendments and returned to the Legislative Assembly no amendment
20 shall be proposed to the Bill other than such amendments if any, as are made necessary by the delay in the passage of the Bill,

(*b*) if the Bill has been so passed and returned by the Legislative Council, only such amendments
25 as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Chambers have not agreed,

and the decision of the person presiding as to the amend-
30 ments which are admissible under this subsection shall be final

Assent to Bills

75. A Bill which has been passed by the Provincial Legislative Assembly or in the case of a Province having a Legislative Council, has been passed by both Chambers
35 of the Provincial Legislature shall be presented to the Governor and the Governor in his discretion shall declare either that he assents in His Majesty's name to the Bill, or that he withholds assent therefrom or that he reserves the Bill for the consideration of the Governor
40 General

Provided that the Governor may in his discretion return the Bill together with a message requesting

A D 193
Part III
—cont

that the Chamber or Chambers will reconsider the Bill or any specified provisions thereof and in particular will consider the desirability of introducing any such amendments as he may recommend in his message and when a Bill is so returned the Chamber or Chambers shall reconsider it accordingly

Bills reserved for consideration

76 —(1) When a Bill is reserved by a Governor for the consideration of the Governor General the Governor General shall in his discretion declare either that he assents in His Majesty s name to the Bill or that he withholds assent therefrom or that he reserves the Bill for the signification of His Majesty s pleasure thereon

Provided that the Governor General may if he in his discretion thinks fit direct the Governor to return the Bill to the Chamber or as the case may be the Chambers of the Provincial Legislature together with such a message as is mentioned in the proviso to the last preceding section and when a Bill is so returned the Chamber or Chambers shall reconsider it accordingly and if it is again passed by them with or without amendment it shall be presented again to the Governor General for his consideration

(2) A Bill reserved for the signification of His Majesty s pleasure shall not become an Act of the Provincial Legislature unless and until within twelve months from the day on which it was presented to the Governor the Governor makes known by public notification that His Majesty has assented thereto

Power of Crown to disallow Acts

77 Any Act assented to by the Governor or the Governor General may be disallowed by His Majesty within twelve months from the date of the assent and where any Act is so disallowed the Governor shall forthwith make the disallowance known by public notification and as from the date of the notification the Act shall become void

Procedure in Financial matters

Annual financial statement

78 —(1) The Governor shall in respect of every financial year cause to be laid before the Chamber or Chambers of the Legislature a statement of the estimated receipts and expenditure of the Province for that year 4

in this Part of this Act referred to as the "annual financial statement".

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(a) the sums required to meet expenditure described by this Act as expenditure charged upon the revenues of the Province and

(b) the sums required to meet other expenditure proposed to be made from the revenues of the Province,

and shall distinguish expenditure on revenue account from other expenditure and indicate the sums if any, which *are included solely because the Governor has directed* their inclusion as being necessary for the due discharge of any of his special responsibilities

(3) The following expenditure shall be expenditure charged on the revenues of each Province—

(a) the salary and allowances of the Governor and other expenditure relating to his office for which provision is required to be made by Order in Council,

(b) debt charges for which the Province is liable, including interest, sinking fund charges and redemption charges and other expenditure relating to the raising of loans and the service and redemption of debt,

(c) the salaries and allowances of ministers, of the advocate-general and of the personal and secretarial staffs of the Governor,

(d) expenditure in respect of the salaries and allowances of judges of any High Court,

(e) expenditure connected with the administration of any areas which are for the time being excluded areas,

(f) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal·

(g) any other expenditure declared by this Act or any Act of the Provincial Legislature to be so charged

A D 1935
PART III
—*cont*

(4) Any question whether any proposed expenditure falls within a class of expenditure charged on the revenues of the Province shall be decided by the Governor in his discretion

Procedure in Legislature with respect to estimates

79.—(1) So much of the estimates of expenditure as relates to expenditure charged upon the revenues of a Province shall not be submitted to the vote of the Legislative Assembly, but nothing in this sub section shall be construed as preventing the discussion in the Legislature of those estimates other than estimates relating to expenditure referred to in sub paragraph (*a*) of sub section (3) of the last preceding section

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly and the Legislative Assembly shall have power to assent, or to refuse to assent to any demand or to assent to a demand subject to a reduction of the amount specified therein

(3) No demand for a grant shall be made except on the recommendation of the Governor

Authentication of schedule of authorised expenditure

80.—(1) The Governor shall authenticate by his signature a schedule specifying—

(*a*) the grants made by the Assembly under the last preceding section,

(*b*) the several sums required to meet the expenditure charged on the revenues of the Province but not exceeding, in the case of any sum, the sum shown in the statement previously laid before the Chamber or Chambers

Provided that if the Assembly have refused to assent to any demand for a grant or have assented to such a demand subject to a reduction of the amount specified therein, the Governor may, if in his opinion the refusal or reduction would affect the due discharge of any of his special responsibilities, include in the schedule such additional amount, if any, not exceeding the amount of the rejected demand or the reduction, as the case may be, as appears to him necessary in order to enable him to discharge that responsibility

(2) The schedule so authenticated shall be laid before the Assembly but shall not be open to discussion or vote in the Legislature

(3) Subject to the provisions of the next succeeding section no expenditure from the revenues of the Province shall be deemed to be duly authorised unless it is specified in the schedule so authenticated

Supplementary statement of expenditure

81. If in respect of any financial year further expenditure from the revenues of the Province becomes necessary over and above the expenditure theretofore authorised for that year, the Governor shall cause to be laid before the Chamber or Chambers a supplementary statement showing the estimated amount of that expenditure, and the provisions of the preceding sections shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein

Special provisions as to financial Bills

82 —(1) A Bill or amendment making provision—

(*a*) for imposing or increasing any tax or impost whether local or general, or

(*b*) for authorising the borrowing of money or the giving of any guarantee by the Province or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Province, or

(*c*) for declaring any expenditure to be expenditure charged on the revenues of the Province, or for increasing the amount of any such expenditure,

shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in a Legislative Council

(2) A Bill or amendment shall not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand and payment of fees for licences or fees for services rendered.

A D 1935
Part III
—cont

(3) A Bill which if enacted and brought into operation would involve expenditure from the revenues of a Province shall not be passed by a Chamber of the Legislature unless the Governor has recommended to that Chamber the consideration of the Bill

Provisions with respect to certain educational grants in aid

83 —(1) If in the last complete financial year before the commencement of this Part of this Act a grant for the benefit of the Anglo Indian and European communities or either of them was included in the grants made in any Province in aid of education, then in each subsequent financial year not being a year in which the Provincial Legislative Assembly otherwise resolve by a majority which includes at least three fourths of the members of the Assembly a grant for the like purposes shall be made and the proportion which that grant bears to the total of the grants made in the Province in aid of education shall not be varied to the disadvantage of the communities or community concerned

(2) The provisions of this section shall cease to have effect in a Province if at any time the Provincial Legislative Assembly resolve by a majority which includes at least three fourths of the members of the Assembly that those provisions shall cease to have effect

(3) Nothing in this section affects the special responsibility of the Governor of a Province for the safeguarding of the legitimate interests of minorities

Procedure generally

Rules of procedure

84.—(1) A Chamber of a Provincial Legislature may make rules for regulating, subject to the provisions of this Act, their procedure and the conduct of their business

Provided that, as regards either a Legislative Assembly or a Legislative Council, the Governor shall in his discretion, after consultation with the Speaker or the President, as the case may be, make rules—

(*a*) for regulating the procedure of and the conduct of business in the Chamber in relation to any matter which affects the discharge of his functions in so far as he is by or under this Act

required to act in his discretion or to exercise his individual judgment,

(*b*) for securing the timely completion of financial business,

(*c*) for prohibiting the discussion of, or the asking of questions on, any matter connected with any Indian State unless the Governor in his discretion is satisfied that the matter affects the interests of the Provincial Government or of a British subject who is ordinarily resident in the Province, and has given his consent to the matter being discussed, or to the question being asked,

(*d*) for prohibiting, save with the consent of the Governor in his discretion—

(i) the discussion of or the asking of questions on any matter affecting relations between His Majesty or the Governor General and any foreign State or Prince, or

(ii) the discussion, except in relation to estimates of expenditure, of or the asking of questions on any matters arising out of or affecting the administration of an excluded or partially excluded area,

and if and in so far as any rule so made by the Governor is inconsistent with any rule made by a Chamber, the rule made by the Governor shall prevail

(2) In a Province having a Legislative Council the Governor after consultation with the Speaker and the President may make rules as to the procedure with respect to joint sittings of, and communications between the two Chambers

The said rules shall make such provision for the purposes specified in the proviso to the preceding sub section as the Governor in his discretion may think fit

(3) Until rules are made under this section the rules of procedure and standing orders in force immediately before the commencement of this Part of this Act with respect to the Legislative Council of the Province shall have effect in relation to the Legislature of the

A D 1935
Part III
—contd

Province subject to such modifications and adaptations as may be made therein by the Governor acting in his discretion

(4) At a joint sitting of two Chambers the President of the Legislative Council or in his absence such person as may be determined by rules of procedure made under this section shall preside

English to be used in Provincial Legislatures

85 All proceedings in the Legislature of a Province shall be conducted in the English language

Provided that the rules of procedure of the Chamber or Chambers and the rules if any with respect to joint sittings shall provide for enabling persons unacquainted or not sufficiently acquainted with the English language to use another language

Restrictions on discussion

86 —(1) No discussion shall take place in a Provincial Legislature with respect to the conduct of any judge of the Federal Court or of a High Court in the performance of his judicial functions

(2) If the Governor in his discretion certifies that the discussion of a Bill introduced or proposed to be introduced in the Provincial Legislature or of any specified clause of a Bill or of any amendment moved or proposed to be moved to a Bill would affect the discharge of his special responsibility for the prevention of any grave menace to the peace or tranquillity of the Province or any part thereof he may in his discretion direct that no proceedings or no further proceedings shall be taken in relation to the Bill clause or amendment and effect shall be given to the direction

Courts not to inquire into proceedings of the Legislature

87 —(1) The validity of any proceedings in a Provincial Legislature shall not be called in question on the ground of any alleged irregularity of procedure

(2) No officer or other member of a Provincial Legislature in whom powers are vested by or under this Act for regulating procedure or the conduct of business or for maintaining order in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers

CHAPTER IV

Legislative Powers of Governor

Power of Governor to promulgate ordinances during recess of Legislature.

88.—(1) If at any time when the Legislature of a Province is not in session the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action he may promulgate such ordinances as the circumstances appear to him to require

Provided that the Governor—

(*a*) shall exercise his individual judgment as respects the promulgation of any ordinance under this section if a Bill containing the same provisions would under this Act have required his or the Governor General's previous sanction to the introduction thereof into the Legislature, and

(*b*) shall not without instructions from the Governor General, acting in his discretion. promulgate any such ordinance if a Bill containing the same provisions would under this Act have required the Governor General's previous sanction for the introduction thereof into the Legislature or if he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the Governor General

(2) An ordinance promulgated under this section shall have the same force and effect as an Act of the Provincial Legislature assented to by the Governor, but every such ordinance—

(*a*) shall be laid before the Provincial Legislature and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature, or, if a resolution disapproving it is passed by the Legislative Assembly and agreed to by the Legislative Council, if any, upon the passing of the resolution or, as the case may be on the resolution being agreed to by the Council,

(*b*) shall be subject to the provisions of this Act relating to the powers of the Governor General and of His Majesty to disallow Acts as if it

A.D 193

PART III
—cont

were an Act of the Provincial Legislature assented to by the Governor, and

(c) may be withdrawn at any time by the Governor

(3) If and so far as an ordinance under this section makes any provision which would not be valid if enacted in an Act of the Provincial Legislature assented to by the Governor it shall be void

[illegible]

89 —(1) If at any time the Governor of a Provinc is satisfied that circumstances exist which render i necessary for him to take immediate action for th purpose of enabling him satisfactorily to discharg his functions in so far as he is by or under this Ac required in the exercise thereof to act in his discretion or to exercise his individual judgment he may promulga such ordinances as in his opinion the circumstances the case require

(2) An ordinance promulgated under this secti shall continue in operation for such period not exceedi six months as may be specified therein, but may by subsequent ordinance be extended for a further peri not exceeding six months

(3) An ordinance promulgated under this secti shall have the same force and effect as an Act of t Provincial Legislature assented to by the Governor, b every such ordinance—

(a) shall be subject to the provisions of this A relating to the powers of the Governor Gene and of His Majesty to disallow Acts as if it we *an Act of the Provincial Legislature*,

(b) may be withdrawn at any time by the Govern and

(c) if it is an ordinance extending a previous ord ance for a further period, shall be communicat forthwith through the Governor General to t Secretary of State and shall be laid by h before each House of Parliament

(4) If and so far as an ordinance under this secti makes any provision which would not be valid if enact in an Act of the Provincial Legislature it shall be voi

Provided that for the purposes of the provisions of this Act relating to the effect of an Act of a Provincial Legislature which is repugnant to an Act of the Federal Legislature, an ordinance promulgated under this section 5 shall, until disallowed by the Governor General, be deemed to be an Act of the Provincial Legislature which has been reserved for his consideration and assented to by him

(5) The functions of the Governor under this section 10 shall be exercised by him in his discretion but he shall not exercise any of his powers thereunder except with the concurrence of the Governor-General in his discretion

Power of Governor to enact Acts

90.—(1) If at any time it appears to the Governor that for the purpose of enabling him satisfactorily to 15 discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment, it is essential that provision should be made by legislation, he may by message to the Chamber or Chambers of the 20 Legislature explain the circumstances which in his opinion render legislation essential and shall attach to any such message a draft of the Bill which he considers necessary

(2) At any time after the expiration of one month 25 the Governor may enact, as a Governor's Act, the Bill proposed by him to the Chamber or Chambers either in the form of the draft communicated to them, or with such amendments as he deems necessary, but before so doing he shall consider any address which may have 30 been presented to him within the said period by the Chamber or either of the Chambers with reference to the Bill or to amendments suggested to be made therein

(3) A Governor's Act shall have the same force and effect, and shall be subject to disallowance in the same 35 manner, as an Act of the Provincial Legislature assented to by the Governor and if and so far as it makes any provision which would not be valid if enacted in an Act of that Legislature shall be void

Provided that for the purposes of the provisions of 40 this Act relating to the effect of an Act of a Provincial Legislature which is repugnant to an Act of the Federal

A.D. 1935
PART III
—cont.

Legislature, a Governor's Act shall be deemed to be an Act reserved for the consideration of the Governor-General and assented to by him.

(4) Every Governor's Act shall be communicated forthwith through the Governor-General to the Secretary of State and shall be laid by him before each House of Parliament.

(5) The functions of the Governor under this section shall be exercised by him in his discretion, but he shall not exercise any of his powers thereunder except with the concurrence of the Governor-General in his discretion.

CHAPTER V

EXCLUDED AREAS AND PARTIALLY EXCLUDED AREAS

Excluded areas and partially excluded areas.

91. In this Act the expressions "excluded area" and "partially excluded area" mean respectively the areas specified in Part I and Part II of the Sixth Schedule to this Act:

Provided that His Majesty may by Order in Council—

(*a*) direct that the whole or any specified part of an excluded area shall become or become part of a partially excluded area;

(*b*) direct that the whole or any specified part of a partially excluded area shall cease to be a partially excluded area or a part of such an area;

(*c*) alter, but only by way of rectification of boundaries, any excluded or partially excluded area;

(*d*) on any alteration of the boundaries of a Province, or the creation of a new Province, declare any territory not previously included in any Province to be, or to form part of, an excluded area or a partially excluded area,

and any such Order may contain such incidental and consequential provisions as appear to His Majesty to be necessary and proper.

Administration of excluded areas and

92.—(1) The executive authority of a Province extends to excluded and partially excluded areas therein, but, notwithstanding anything in this Act, no Act of the Federal Legislature or of the Provincial Legislature,

shall apply to an excluded area or a partially excluded area, unless the Governor by public notification so directs, and the Governor in giving such a direction with respect to any Act may direct that the Act shall in its application 5 to the area or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit

Partially excluded areas

(2) The Governor may make Regulations for the peace and good government of any area in a Province 10 which is for the time being an excluded area or a partially excluded area and any Regulations so made may repeal or amend any Act of the Federal Legislature or of the Provincial Legislature which is for the time being applicable to the area in question

15 Regulations made under this subsection shall be submitted forthwith to the Governor General and until assented to by him in his discretion shall have no effect and the provisions of this Part of this Act with respect to the power of His Majesty to disallow 20 Acts shall apply in relation to any such Regulations assented to by the Governor General as they apply in relation to Acts of a Provincial Legislature assented to by him

(3) The Governor shall as respects any area in a 25 Province which is for the time being an excluded area, exercise his functions in his discretion

CHAPTER VI

Provisions in case of Failure of Constitutional Machinery

30 **93.**—(1) If at any time the Governor of a Province is satisfied that a situation has arisen in which the government of the Province cannot be carried on in accordance with the provisions of this Act, he may by Proclamation—

Power of Governor to issue Proclamations

35 (*a*) declare that his functions shall, to such extent as may be specified in the Proclamation, be exercised by him in his discretion,

(*b*) assume to himself all or any of the powers vested in or exercisable by any Provincial body or 40 authority,

and any such Proclamation may contain such incidental and consequential provisions as may appear to him to be

A D 1935
PART III
—*cont*

necessary or desirable for giving effect to the objects of the Proclamation including provisions for suspending in whole or in part the operation of any provisions of this Act relating to any Provincial body or authority

Provided that nothing in this subsection shall 5 authorise the Governor to assume to himself any of the powers vested in or exercisable by a High Court or to suspend either in whole or in part the operation of any provision of this Act relating to High Courts

(2) Any such Proclamation may be revoked or varied 10 by a subsequent Proclamation

(3) A Proclamation under this section—

(*a*) shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament 15

(*b*) unless it is a Proclamation revoking a previous Proclamation shall cease to operate at the expiration of six months unless before the expiration of that period it has been approved by resolutions of both Houses of Parliament 20

(4) The functions of the Governor under this section shall be exercised by him in his discretion and no Proclamation shall be made by a Governor under this section without the concurrence of the Governor General in his discretion 25

PART IV

THE CHIEF COMMISSIONERS' PROVINCES

Chief Commissioners Provinces

94.—(1) The following shall be the Chief Commissioners' Provinces that is to say the heretofore existing Chief Commissioners' Provinces of British Baluchistan Delhi, Ajmer Merwara Coorg and the Andaman 30 and Nicobar Islands the area known as Panth Piploda and such other Chief Commissioners' Provinces as may be created under this Act

(2) Aden shall cease to be part of India 35

(3) A Chief Commissioner's Province shall be administered by the Governor General acting, to such extent as he thinks fit through a Chief Commissioner to be appointed by him in his discretion

British Baluchistan.

95.—(1) In directing and controlling through the Chief Commissioner the administration of British Baluchistan the Governor-General shall act in his discretion.

(2) The executive authority of the Federation extends to British Baluchistan as it extends to other Chief Commissioners' Provinces, but, notwithstanding anything in this Act, no Act of the Federal Legislature shall apply to British Baluchistan unless the Governor-General in his discretion by public notification so directs, and the Govenor-General in giving such a direction with respect to any Act may direct that the Act shall in its application to the Province, or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit.

(3) The Governor-General may in his discretion make Regulations for the peace and good government of British Baluchistan, and any Regulations so made may repeal or amend any Act of the Federal Legislature which is for the time being applicable to the Province and, when promulgated by the Governor-General, shall have the same force and effect as an Act of the Federal Legislature which applies to the Province.

The provisions of Part II of this Act relating to the power of His Majesty to disallow Acts shall apply in relation to any such Regulations as they apply in relation to Acts of the Federal Legislature asesented to by the Governor-General.

The Andaman and Nicobar Islands.

96. The provisions of subsection (3) of the last preceding section shall apply in relation to the Andaman and Nicobar Islands as they apply in relation to British Baluchistan.

Coorg.

97. Until other provision is made by His Majesty in Council, the constitution, powers and functions of the Coorg Legislative Council, and the arrangements with respect to revenues collected in Coorg, and expenses in respect of Coorg, shall continue unchanged.

Provisions as to police rules and power of

98. The provisions of Part III of this Act with respect to police rules and with respect to crimes of violence intended to overthrow the government, including the provisions thereof relating to the non-disclosure of

A D 1935
PART IV —*cont*
Governor General to deal with crimes of violence

certain records and information shall apply in relation to Chief Commissioners Provinces as they apply in relation to Governors Provinces with the substitution for references to the Governor and the Chamber or Chambers of the Provincial Legislature of references to the Governor General and the Chambers of the Federal Legislature

PART V

LEGISLATIVE POWERS

CHAPTER I

Distribution of Powers

Extent of Federal and Provincial laws

99 Subject to the provisions of this Act—

(1) The Federal Legislature may make laws for the whole or any part of British India or for any Federated State and a Provincial Legislature may make laws for the Province or for any part thereof

(2) Without prejudice to the provisions of the preceding paragraph a Federal law shall unless it is otherwise expressly provided therein extend—

(*a*) to all subjects of His Majesty within any part of India

(*b*) to all Indian subjects of His Majesty wherever they may be

(*c*) in the case of a law with respect to a matter accepted in the Instrument of Accession of a Federated State as a matter with respect to which the Federal Legislature may make laws for that State and for the subjects thereof to all subjects of that State wherever they may be and

(*d*) in the case of a law for the regulation or discipline of any naval military or air force raised in British India to all members of and all persons attached to employed with or following that force wherever they may be in so far as they are not subject to the Army Act or the Air Force Act or otherwise than by virtue of an Act of the Indian or of the Federal Legislature to the Naval Discipline Act

Subject matter of Federal and Provincial laws.

100.—(1) Notwithstanding anything in the two next succeeding subsections, the Federal Legislature has, and a Provincial Legislature has not, power to make laws with respect to any of the matters enumerated in List I in the Seventh Schedule to this Act (hereinafter called the "Federal Legislative List").

(2) Notwithstanding anything in the next succeeding subsection, the Federal Legislature, and, subject to the preceding subsection, a Provincial Legislature also, have power to make laws with respect to any of the matters enumerated in List III in the said Schedule (hereinafter called the "Concurrent Legislative List").

(3) Subject to the two preceding subsections, the Provincial Legislature has, and the Federal Legislature has not, power to make laws for a Province or any part thereof with respect to any of the matters enumerated in List II in the said Schedule (hereinafter called the "Provincial Legislative List").

(4) The Federal Legislature has power to make laws with respect to matters enumerated in the Provincial Legislative List except for a Province or any part thereof.

Extent of power to legislate for States.

101. Nothing in this Act shall be construed as empowering the Federal Legislature, in virtue of the accession of a State to the Federation, to make laws extending to the State or the subjects thereof otherwise than in accordance with the Instrument of Accession of that State and any conditions contained therein.

Power of Federal Legislature to legislate on Proclamation of Emergency.

102.—(1) Notwithstanding anything in the preceding sections of this chapter, the Federal Legislature shall, if the Governor-General has in his discretion declared by Proclamation (in this Act referred to as a "Proclamation of Emergency") that a grave emergency exists whereby the security of India is threatened, whether by war or internal disturbance, have power to make laws for a Province or any part thereof with respect to any of the matters enumerated in the Provincial Legislative List:

Provided that no Bill or amendment for the purposes aforesaid shall be introduced or moved without the previous sanction of the Governor-General in his discretion, and the Governor-General shall not give his sanction unless it appears to him that the provision proposed to be made

A D 1935.
PART V
—*cont*

is a proper provision in view of the nature of the emergency

(2) Nothing in this section shall restrict the power of a Provincial Legislature to make any law which under this Act it has power to make, but if any provision of a Provincial law is repugnant to any provision of a Federal law which the Federal Legislature has under this section power to make the Federal law whether passed before or after the Provincial law shall prevail and the Provincial law shall to the extent of the repugnancy but so long only as the Federal law continues to have effect be void

(3) A Proclamation of Emergency—

(*a*) may be revoked by a subsequent Proclamation

(*b*) shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament and

(*c*) shall cease to operate at the expiration of six months, unless before the expiration of that period it has been approved by Resolutions of both Houses of Parliament

(4) A law made by the Federal Legislature which that Legislature would not but for the issue of a Proclamation of Emergency have been competent to make shall cease to have effect on the expiration of a period of six months after the Proclamation has ceased to operate except as respects things done or omitted to be done before the expiration of the said period

Power of Federal Legislature to legislate for two or more Provinces by consent

103. If it appears to the Legislatures of two or more Provinces to be desirable that any of the matters enumerated in the Provincial Legislative List should be regulated in those Provinces by Act of the Federal Legislature and if resolutions to that effect are passed by all the Chambers of those Provincial Legislatures, it shall be lawful for the Federal Legislature to pass an Act for regulating that matter accordingly but any Act so passed may, as respects any Province to which it applies, be amended or repealed by an Act of the Legislature of that Province

Residual powers of legislation

104.—(1) The Governor General may by public notification empower either the Federal Legislature or a Provincial Legislature to enact a law with respect to any matter not enumerated in any of the Lists in the Seventh

Schedule to this Act or to impose a tax or duty not mentioned in any such list, and the executive authority of the Federation or of the Province, as the case may be, shall extend to the administration of any law so made, unless the Governor General otherwise directs

(2) In the discharge of his functions under this section the Governor General shall act in his discretion

Application of Naval Discipline Act to Indian naval forces

105—(1) Without prejudice to the provisions of this Act with respect to the legislative powers of the Federal Legislature provision may be made by Act of that Legislature for applying the Naval Discipline Act to the Indian naval forces and so long as provision for that purpose is made either by an Act of the Federal Legislature or by an Act of the Indian Legislature passed before the commencement of Part III of this Act, the Naval Discipline Act as so applied shall have effect as if references therein to His Majesty's navy and His Majesty's ships included references to His Majesty's Indian navy and the ships thereof subject however—

(*a*) in the application of the said Act to the forces and ships of the Indian navy and to the trial by court martial of officers and men belonging thereto, to such modifications and adaptations if any, as may be or may have been made by the Act of the Federal or Indian Legislature to adapt the said Act to the circumstances of India including such adaptations as may be or may have been so made for the purpose of authorising or requiring anything which under the said Act is to be done by or to the Admiralty or the Secretary of the Admiralty to be done by or to the Governor General or some person authorised to act on his behalf and

(*b*) in the application of the said Act to the forces and ships of His Majesty's navy other than those of the Indian navy to such modifications and adaptations as may be made or may have been made under section sixty six of the Government of India Act by His Majesty in Council for the purpose of regulating the relations of those forces and ships to the forces and the ships of the Indian Navy

(2) Notwithstanding anything in this Act or in any Act of any Legislature in India where any forces and

A.D. 1935
Part V
cont

ships of the Indian navy have been placed at the disposal of the Admiralty, the Naval Discipline Act shall have effect as if references therein to His Majesty's navy and His Majesty's ships included references to His Majesty's Indian navy and the ships thereof, without any such modifications or adaptations as aforesaid.

Power of Federal Legislature to give effect to international agreements.

106.—(1) The Federal Legislature shall not by reason only of the entry in the Federal Legislative List relating to the implementing of treaties and agreements with other countries have power to make any law for any Province except with the previous consent of the Governor, or for a Federated State except with the previous consent of the Ruler thereof.

(2) So much of any law as is valid only by virtue of any such entry as aforesaid may be repealed by the Federal Legislature and may, on the agreement in question ceasing to have effect, be repealed as respects any Province by the Legislature thereof.

Inconsistency between Federal laws and Provincial or State laws.

107.—(1) If any provision of a Provincial law is repugnant to any provision of a Federal law which the Federal Legislature is competent to enact, then, subject to the provisions of this section, the Federal law, whether passed before or after the Provincial law, shall prevail and the Provincial law shall, to the extent of the repugnancy, be void.

(2) Where a Provincial law with respect to one of the matters enumerated in the Concurrent Legislative List contains any provision repugnant to the provisions of an earlier Federal law, then, if the Provincial law, having been reserved for the consideration of the Governor General or for the signification of His Majesty's pleasure, has received the assent of the Governor General or of His Majesty, the Provincial law shall in that Province prevail over the Federal law, but nevertheless the Federal Legislature may at any time enact further legislation with respect to the same matter:

Provided that no Bill or amendment for making any provision inconsistent with any Provincial law which, having been so reserved, has received the assent of the Governor General or of His Majesty shall be introduced or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor General in his discretion.

(3) If any provision of a law of a Federated State is repugnant to a Federal law which extends to that State the Federal law whether passed before or after the law of the State shall prevail and the law of the State shall to the extent of the repugnancy be void

CHAPTER I

RESTRICTIONS ON LEGISLATIVE POWERS

Sanction of Governor General or Governor required for certain legislative proposals

108 —(1) Unless the Governor General in his discretion thinks fit to give his previous sanction there shall not be introduced into or moved in either Chamber of the Federal Legislature any Bill or amendment which—

(*a*) repeals amends or is repugnant to any provisions of any Act of Parliament extending to British India or

(*b*) repeals amends or is repugnant to any Governor General s or Governor s Act or any ordinance promulgated in his discretion by the Governor General or a Governor or

(*c*) affects matters reserved to the discretion of the Governor General in relation to defence external affairs ecclesiastical affairs the tribal areas or British Baluchistan or

(*d*) repeals amends or affects any Act relating to any police force or

(*e*) affects the procedure for criminal proceedings in which European British subjects are concerned

(2) Unless the Governor General in his discretion thinks fit to give his previous sanction there shall not be introduced into or moved in a Chamber of a Provincial Legislature any Bill or amendment which—

(*a*) repeals amends or is repugnant to any provisions of any Act of Parliament extending to British India or

(*b*) repeals amends or is repugnant to any Governor General s Act or any ordinance promulgated in his discretion by the Governor General

A D 1935
Part V
—cont

(c) affects matters reserved to the discretion of the Governor General in relation to defence, external affairs ecclesiastical affairs, the tribal area or British Baluchistan or

(d) affects the procedure for criminal proceedings in which European British subjects are concerned

and unless the Governor of the Province in his discretion thinks fit to give his previous sanction, there shall not be introduced or moved any Bill or amendment which—

(i) repeals amends or is repugnant to any Governor Act or any ordinance promulgated in his discretion by the Governor or

(ii) repeals amends or affects any Act relating to any police force

(3) Nothing in this section affects the operation of any other provision in this Act which requires the previous sanction of the Governor General or of a Governor to the introduction of any Bill or the moving of any amendment

Requirements as to sanctions and recommendations to be regarded as matters of procedure only

109.—(1) Where under any provision of this Act the previous sanction or recommendation of the Governor General or of a Governor is required to the introduction or passing of a Bill or the moving of an amendment the giving of the sanction or recommendation shall not be construed as precluding him from exercising subsequently in regard to the Bill in question any power conferred upon him by this Act with respect to the withholding of assent to or the reservation of Bills

(2) No Act of the Federal Legislature or a Provincial Legislature and no provision in any such Act, shall be invalid by reason only that some previous sanction or recommendation was not given if assent to that Act was given—

(a) where the previous sanction or recommendation required was that of the Governor either by the Governor by the Governor General or by His Majesty;

(b) where the previous sanction or recommendation required was that of the Governor-General, either by the Governor General or by His Majesty.

A D 1935

PART V —cont

Savings

110. Nothing in this Act shall be taken—

(a) to affect the power of Parliament to legislate for British India, or any part thereof, or

(b) to empower the Federal Legislature, or any Provincial Legislature—

(i) to make any law affecting the Sovereign or the Royal Family, or the sovereignty, dominion or suzerainty of the Crown in any part of India, or the law of British nationality, or the Army Act, the Air Force Act, or the Naval Discipline Act, or the law of Prize or Prize courts or

(ii) except in so far as is expressly permitted by this Act, to make any law amending any provision of this Act, or any Order in Council made thereunder, or any rules made under this Act by the Secretary of State or by the Governor General or a Governor in his discretion, or in the exercise of his individual judgment

CHAPTER III

PROVISIONS WITH RESPECT TO DISCRIMINATION ETC

Provisions as to British subjects domiciled in the United Kingdom

111.—(1) Subject to the provisions of this chapter, a British subject domiciled in the United Kingdom shall be exempt from the operation of so much of any Federal or Provincial law as—

(a) imposes any restriction on the right of entry into British India or

(b) imposes by reference to place of birth race descent language religion domicile, residence or duration of residence, any liability, restriction or condition in regard to travel, residence the holding of property or public office, or the carrying on of any occupation trade business or profession

Provided that no person shall by virtue of this subsection be entitled to claim exemption from any such restriction, condition or liability as aforesaid if and so long as Indian subjects of His Majesty domiciled in British India are by or under the law of the United

Kingdom subject in the United Kingdom to a similar restriction, condition or liability imposed in regard to the same subject matter by reference to the same principle of distinction

(2) For the purposes of the preceding subsection, a provision, whether of the law of British India or of the law of the United Kingdom empowering any public authority to impose quarantine regulations, or to exclude or deport individuals wherever domiciled who appear to that authority to be undesirable persons shall not be deemed to be a restriction on the right of entry

(3) Notwithstanding anything in this section, if the Governor General or as the case may be the Governor of any Province by public notification certifies that for the prevention of any grave menace to the peace or tranquillity of any part of India or as the case may be, of any part of the Province or for the purpose of combating crimes of violence intended to overthrow the Government it is expedient that the operation of the provisions of subsection (1) of this section should be wholly or partially suspended in relation to any law then while the notification is in force the operation of those provisions shall be suspended accordingly

The functions of the Governor General and of a Governor under this subsection shall be exercised by him in his discretion 25

Provisions as to taxation.

112. No Federal or Provincial law which imposes any liability to taxation shall be such as to discriminate against British subjects domiciled in the United Kingdom or against Burman subjects of His Majesty domiciled in Burma and any law passed or made in contravention of this section shall, to the extent of the contravention, be invalid 30

Companies incorporated in the United Kingdom

113. Subject to the following provisions of this chapter, a company incorporated whether before or after the passing of this Act, by or under the laws of the United Kingdom, and the members of the governing body of any such company and the shareholders officers, agents and servants thereof, shall be deemed to comply with so much of any Federal or Provincial law as imposes in regard to companies trading in British India requirements or conditions relating to or connected with— 35 40

(*a*) the place of incorporation of a company or

(*b*) the place of birth race descent language religion domicile, residence or duration of residence of members of the governing body of a company, or of its shareholders, officers,
5 agents or servants

Provided that no company or person shall by virtue of this section be deemed to comply with any such requirement or condition as aforesaid if and so long as a like requirement or condition is imposed by or under
10 the law of the United Kingdom in regard to companies incorporated by or under the laws of British India and trading in the United Kingdom

Companies incorporated in India

114 —(1) Subject to the following provisions of this chapter, a British subject domiciled in the United
15 Kingdom shall be deemed to comply with so much of any Federal or Provincial law as imposes in regard to companies incorporated whether before or after the passing of this Act by or under the laws of British India any requirements or conditions relating to or
20 connected with the place of birth race descent language religion domicile residence or duration of residence of members of the governing body of a company or of its shareholders officers agents or servants

25 Provided that no person shall by virtue of this section be deemed to comply with any such requirement or condition as aforesaid if and so long as a like requirement or condition is imposed by or under the law of the United Kingdom in regard to companies
30 incorporated by or under the laws of the United Kingdom on Indian subjects of His Majesty domiciled in British India

(2) For the purposes of this section but not for the purposes of any other provision of this chapter a com-
35 pany registered in Burma before the commencement of Part III of this Act shall be deemed to be a company incorporated by or under the laws of British India

Reciprocal treatment of ships

115 —(1) No ship registered in the United Kingdom shall be subjected directly or indirectly by or under any
40 Federal or Provincial law to any treatment affecting either the ship herself or her master officers crew passengers or cargo which is discriminatory in favour of ships registered in British India except in so far as ships

A D 1935

PART V —*cont*

registered in British India are for the time being subjected by or under any law of the United Kingdom to treatment of a like character which is similarly discriminatory in favour of ships registered in the United Kingdom

(2) The provisions of this section are in addition to and not in derogation of the provisions of any of the preceding sections of this chapter

Subsidies for the encouragement of trade or industry

116 —(1) Notwithstanding anything in any Act of the Federal Legislature or of a Provincial Legislature companies incorporated whether before or after the passing of this Act by or under the laws of the United Kingdom and carrying on business in India shall be eligible for any grant bounty or subsidy payable out of public moneys in India for the encouragement of any trade or industry to the same extent as companies incorporated by or under the laws of British India are eligible therefor

Provided that this subsection shall not apply in relation to any grant bounty or subsidy payable out of public moneys for the encouragement of any trade or industry if and so long as under the law of the United Kingdom for the time being in force companies incorporated by or under the laws of British India and carrying on business in the United Kingdom are not equally eligible with companies incorporated by or under the laws of the United Kingdom for the benefit of any grant bounty or subsidy payable out of public moneys in the United Kingdom for the encouragement of the same trade or industry

(2) Notwithstanding anything in this chapter an Act of the Federal Legislature or of a Provincial Legislature may require in the case of a company which at the date of the passing of that Act was not engaged in British India in that branch of trade or industry which it is the purpose of the grant bounty or subsidy to encourage that the company shall not be eligible for any grant bounty or subsidy under the Act unless—

(*a*) the company is incorporated by or under the laws of British India and

(*b*) such proportion not exceeding one half of the members of its governing body as the Act may prescribe are Indian subjects of His Majesty and

(c) the company gives such reasonable facilities for the training of Indian subjects of His Majesty as may be so prescribed

(3) For the purposes of this section a company incorporated by or under the laws of the United Kingdom shall be deemed to be carrying on business in India if it owns ships which habitually trade to and from ports in India

Power to secure by convention reciprocal treatment of persons in the United Kingdom and British India

117.—(1) If after the establishment of the Federation a convention is made between His Majesty's Government in the United Kingdom and the Federal Government whereby similarity of treatment is assured in the United Kingdom to Indian subjects of His Majesty domiciled in British India and to companies incorporated by or under the laws of British India and in British India to subjects of His Majesty domiciled in the United Kingdom and to companies incorporated by or under the laws of the United Kingdom respectively, in respect of the matters or any of the matters with regard to which provision is made in the preceding sections of this chapter, His Majesty may if he is satisfied that all necessary legislation has been enacted both in the United Kingdom and in India for the purpose of giving effect to the convention by Order in Council declare that the purposes of those sections are to such extent as may be specified in the Order sufficiently fulfilled by that convention and legislation, and while any such Order is in force, the operation of those sections shall to that extent be suspended

(2) An Order in Council under this section shall cease to have effect if and when the convention to which it relates expires or is terminated by either party thereto

Professional qualifications in general.

118. No Federal or Provincial law which prescribes, or empowers any authority to prescribe, the qualifications to be held by persons—

(a) practising any profession in British India, or

(b) holding any office or performing any functions in British India,

shall have effect so as to preclude any person who immediately before the passing of this Act was lawfully practising any profession in British India from continuing to practise that profession, or from being appointed to

A D 1935

PART V —cont

or holding any office or performing any functions, if at the said date he was qualified to be appointed to or to hold or perform that office or those functions, or offices or functions of a comparable or analogous nature

Medical qualifications

119.—(1) So long as the condition set out in subsection (3) of this section continues to be fulfilled a British subject domiciled in the United Kingdom or India who by virtue of a medical diploma granted to him in the United Kingdom is or is entitled to be registered in the United Kingdom as a qualified medical practitioner shall not by or under any law of the Indian Legislature, or of the Federal or any Provincial Legislature be excluded from practising medicine, surgery midwifery in India or in any part thereof or from being registered as qualified so to do on any ground other than the ground that the diploma held by him does not furnish a sufficient guarantee of his possession of the requisite knowledge and skill for the practice of medicine surgery and midwifery and he shall not be excluded on that ground unless the law of the Federation or of the Province as the case may be makes provision for securing—

(*a*) that no proposal for excluding the holders of any particular diploma from practice or registration shall become operative until the expiration of twelve months after notice thereof has been given to the Governor General and to the University or other body granting the diploma, and

(*b*) that such a proposal shall not become operative or, as the case may be, shall cease to operate if the Privy Council on an application made to them under the next succeeding subsection determine that the diploma in question ought to be recognised as furnishing such a sufficient guarantee as aforesaid

(2) If any University or other body in the United Kingdom which grants a medical diploma or any British subject who holds such a diploma, is aggrieved by the proposal to exclude holders of that diploma from practice or registration in India, that body or person may make an application to the Privy Council and the Privy Council, after giving to such authorities and persons both in India and in the United

Kingdom as they think fit an opportunity of tendering evidence or submitting representations in writing, shall determine whether the diploma in question does or does not furnish a sufficient guarantee of the possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, and shall notify their determination to the Governor General, who shall communicate it to such authorities and cause it to be published in such manner, as he thinks fit

(3) The condition referred to in subsection (1) of this section is that Indian subjects of His Majesty holding a medical diploma granted after examination in India shall not be excluded from practising medicine, surgery or midwifery in the United Kingdom or from being registered therein as qualified medical practitioners, except on the ground that that diploma does not furnish a sufficient guarantee of the possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, and shall only be excluded on that ground so long as the law of the United Kingdom makes provision for enabling any question as to the sufficiency of that diploma to be referred to and decided by the Privy Council

(4) A medical practitioner entitled to practise or to be registered in India by virtue of a diploma granted in the United Kingdom or in the United Kingdom by virtue of a diploma granted in India shall not in the practice of his profession be subjected to any restriction or condition to which persons entitled to practise by virtue of diplomas granted in the other country are not subject

(5) The foregoing provisions of this section shall, subject to the modifications hereinafter mentioned apply in relation to Burman subjects of His Majesty who, by virtue of medical diplomas granted to them in Burma or the United Kingdom are, or are entitled to be, registered in the United Kingdom as qualified medical practitioners as they apply in relation to British subjects domiciled in the United Kingdom who, by virtue of medical diplomas granted in the United Kingdom are or are entitled to be registered in the United Kingdom as qualified medical practioners

The said modifications are as follows that is to say,—

(a) subsection (3) shall not apply and the reference in subsection (1) to the condition set out therein shall be deemed to be omitted,

A.D 1935

Part V —cont

(b) any reference in subsection (2) or subsection (4) to the United Kingdom shall be construed as a reference to Burma

(6) Nothing in this section shall be construed as affecting any power of any recognised authority in the United Kingdom or India to suspend or debar any person from practice on the ground of misconduct, or to remove any person from a register on that ground

(7) In this section the expression "diploma" includes any certificate degree fellowship, or other document or status granted to persons passing examinations

Officers of Indian Medical Service &c

120 A person who holds a commission from His Majesty as a medical officer in the Indian Medical Service or any other branch of His Majesty's forces and is on the active list shall by virtue of that commission be deemed to be qualified to practise medicine surgery and midwifery in British India and be entitled to be registered in British India or any part thereof as so qualified

Savings and interpretation

121.—(1) Nothing in the preceding sections of this chapter shall affect the operation of any law passed or made before this Act other than a law relating to medical practitioners

(2) In this chapter "law" includes any ordinance, order byelaw rule or regulation, having by virtue of any Act of Parliament or of any existing Indian law or of any law of the Federal or any Provincial Legislature the force of law

PART VI

ADMINISTRATIVE RELATIONS BETWEEN FEDERATION, PROVINCES AND STATES

General

General duty to secure respect for Federal laws

122—(1) The executive authority of every Province and Federated State shall be so exercised as to secure respect as well for the laws of the Federal Legislature which apply in that Province or State as for the laws of the Province or of the State

(2) The reference in sub-section (1) of this section to laws of the Federal Legislature shall, in relation to any Province, include a reference to any existing Indian law applying in that Province.

Power of Federal Legislature to confer powers, &c. on Provinces and States in certain cases.

123.—(1) Notwithstanding anything in this Act, the Governor-General may, with the consent of the Governor of a Province or the Ruler of a Federated State, entrust either conditionally or unconditionally to that Government or Ruler, or to their respective officers, functions in relation to any matter to which the executive authority of the Federation extends.

(2) An Act of the Federal Legislature may, notwithstanding that it relates to a matter with respect to which a Provincial Legislature has no power to make laws, confer powers and impose duties upon a Province or officers and authorities thereof.

(3) An Act of the Federal Legislature which extends to a Federated State may confer powers and impose duties upon the State or officers and authorities thereof.

(4) Where by virtue of this section powers and duties have been conferred or imposed upon a Province or Federated State or officers or authorities thereof, there shall be paid by the Federation to the Province or State such sum as may be agreed, or, in default of agreement, as may be determined by an arbitrator appointed by the Chief Justice of India, in respect of the cost of any additional staff thereby rendered necessary in the Province or State.

Administration of Federal Acts in Indian States.

124. Notwithstanding anything in this Act, agreements may, and, if provision has been made in that behalf by the Instrument of Accession of the State, shall, be made between the Governor-General and the Ruler of a Federated State for entrusting to the Ruler or to his officers functions in relation to the administration in his State of any law of the Federal Legislature which applies therein, but any such agreement shall contain provisions enabling the Governor-General in his discretion to satisfy himself, by inspection or otherwise, that the administration of that law is properly carried out.

A D 1935

PART VI —*cont*

Control of Federation over Province in certain cases

125 —(1) The executive authority of every Province shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation, and the executive authority of the Federation shall extend to the giving of such directions to a Province as may appear to be necessary for that purpose

(2) The executive authority of the Federation shall also extend to the giving of directions to a Province as to the carrying into execution therein of any Act of the Federal Legislature which relates to a matter specified in Part II of the Concurrent Legislative List and authorises the giving of such directions

Provided that a Bill or amendment which proposes to authorise the giving of any such directions as aforesaid shall not be introduced into or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor General in his discretion

(3) If it appears to the Governor General that in any Province effect has not been given to any directions given under this section, the Governor General acting in his discretion, may issue as orders to the Governor of that Province either the directions previously given or those directions modified in such manner as the Governor General thinks proper

(4) Without prejudice to his powers under the last preceding sub section, the Governor General acting in his discretion, may at any time issue orders to the Governor of a Province as to the manner in which the executive authority thereof is to be exercised for the purpose of preventing any grave menace to the peace or tranquillity of India or of any part thereof

Acquisition of land for Federal purposes

126. The Federation may, if it deems it necessary to acquire for the purposes of the Federation (including purposes of the Federal Railway Authority) any land situate in a Province, require the Province to acquire the land on behalf of the Federation or to transfer it to the Federation as the case may be, on the same terms and subject to the same conditions as would be or would have been applicable, if the Province were acquiring or had acquired the land for purposes of the Province

Duty of Ruler of a state as

127 —(1) The executive authority of every Federated State shall be so exercised as not to impede or

prejudice the exercise of the executive authority of the Federation

respects Federal subjects

(2) If it appears to the Governor-General that the Ruler of any Federated State has in any way failed 5 to fulfil his obligations under the preceding sub section or has failed to maintain a system of administration adequate for the purposes of any Act of the Federal Legislature, the administration of which has been en trusted to him or to his officers the Governor-General, 10 acting in his discretion may issue such directions to the Ruler as he tinks fit

Broadcasting

Broad casting

128.—(1) The Government of every Province and the the Ruler of every Federated State shall have reasonable 5 facilities for broadcasting from transmitters in that Province or State subject to such conditions as may be imposed by the Federal Government but it shall not be lawful to impose any conditions regulating the matter so broadcast

'0 Provided that nothing in this sub section shall prevent the imposition of conditions on the Government of a Province regulating the broadcasting of any matter which does not concern a subject to which the executive authority of the Province extends

(2) The Federal Government shall not unreasonably refuse to delegate powers with respect to broadcasting to the Governments of Provinces and the Rulers of Federated States to such extent as may be necessary to enable those Governments and Rulers to regulate broadcasting from short range transmitters in their respective Provinces and States

(3) Any Federal laws which may be passed with respect to broadcasting shall be such as to secure that effect can be given to the foregoing provisions of this section

(4) If any question arises under this section whether reasonable facilities have been afforded to any Govern ment or Ruler or whether any conditions imposed on any such Government or Ruler are lawfully imposed or whether any refusal by the Federal Government to dele gate powers is unreasonable or whether any transmitter

A.D. 1935
PART VI
—cont.

is a short range transmitter, the question shall be determined by the Governor General in his discretion

(5) Nothing in this section shall be construed as restricting the powers conferred on the Governor General by this Act for the purpose of discharging his special responsibility for the prevention of any grave menace to the peace or tranquillity of India or any part thereof or as prohibiting the imposition on Governments or Rulers of such conditions regulating matter broadcast as appear to be necessary to enable the Governor General to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment

Interference with Water Supplies

Complaints as to interference with water supplies

129. If it appears to the Government of any Governor's Province or to the Ruler of any Federated State that the interests of that Province or State or of any of the inhabitants thereof have been or are likely to be affected prejudicially by—

(a) any executive action or legislation taken or passed, or proposed to be taken or passed, or

(b) the failure of any authority to exercise any of their powers,

with respect to the use, distribution or control of water from any natural source of supply in any Governor's or Chief Commissioner's Province, or in any Federated State that Government or Ruler may complain to the Governor General

Decision of complaints

130.—(1) If the Governor General receives such a complaint as aforesaid he shall, unless he is of opinion that no action should be taken by him in the matter, appoint a Commission consisting of such persons having special knowledge and experience in irrigation engineering, administration finance or law, as he thinks fit, and requests that Commission to investigate in accordance with such instructions as he may give to them, and to report to him on the matters to which the complaint relates, or such of those matters as he may refer to them

(2) A Commission so appointed shall investigate the matters referred to them and present to the Governor General a report setting out the facts as found by them and making such recommendations as they think proper

(3) If it appears to the Governor General upon consideration of the Commission's report that anything therein contained requires explanation, or that he needs guidance upon any point not originally referred by him to the Commission, he may again refer the matter to the Commission for further investigation and a further report

(4) For the purpose of assisting a Commission appointed under this section in investigating any matters referred to them, the Federal Court, if requested by the Commission so to do, shall make such orders and issue such letters of request for the purposes of the proceedings of the Commission as they may make or issue in the exercise of the jurisdiction of the court

(5) After considering any report made to him by the Commission, the Governor General shall give such decision and make such order if any, in the matter of the complaint as he may deem proper and in any Province or State affected effect shall be given to any order so made by him, and any Act of a Provincial Legislature or of a State which is repugnant to the order shall, to the extent of the repugnancy, be void

Provided that the Governor General on application made to him by the Government of any Province, or the Ruler of any State affected, may at any time, if after a reference to, and report from a Commission appointed as aforesaid he considers it proper so to do, vary any decision or order given or made under this section whether by himself or by a predecessor of his

(6) An order made by the Governor General under this section may contain directions as to the Government or persons by whom the expenses of the Commission and any costs incurred by any Province, State or persons in appearing before the Commission are to be paid and may fix the amount of any expenses or costs to be so paid and so far as it relates to expenses or costs, may be enforced as if it were an order made by the Federal Court

(7) The functions of the Governor General under

A D 1935

PART VI —*cont*

Interference with water supplies of Chief Commissioner's Province

131. If it appears to the Governor General that the interests of any Chief Commissioner's Province or of any of the inhabitants of such a Province, have been or are likely to be affected detrimentally by—

(*a*) any executive action or legislation taken or [2] passed, or proposed to be taken or passed, or

(*b*) the failure of any authority to exercise any of their powers,

with respect to the use distribution or control of water from any natural source of supply in any Governor's [1] Province or in any Federated State, he may, if he in his discretion thinks fit, refer the matter to a Commission appointed in accordance with the provisions of the last preceding section and thereupon those provisions shall apply as if the Chief Commissioner's Province were a [1] Governor's Province and as if a complaint with respect to the matter had been made by the Government of that Province to the Governor-General

Jurisdiction of Courts excluded

132. Notwithstanding anything in this Act neither the Federal Court nor any other court shall have [2] jurisdiction to entertain any action or suit in respect of any matter if action in respect of that matter might have been taken under the foregoing provisions of this Part of this Act by the Government of a Province, the Ruler of a State or the Governor General [2]

Inter Provincial Co operation

Provisions with respect to an Inter Provincial Council

133. If at any time it appears to His Majesty upon consideration of addresses presented to him through the Governor General from any Legislatures in India that the public interests would be served by the [3] establishment of an Inter Provincial Council charged with the duty of—

(*a*) inquiring into and advising upon disputes which may have arisen between Provinces,

(*b*) investigating and discussing subjects in which [3] some or all of the Provinces, or the Federation and one or more of the Provinces, have a common interest, or

(c) making recommendations upon any such subject and, in particular, recommendations for the better co ordination of policy and action with respect to that subject,

5 it shall be lawful for His Majesty in Council to establish such a Council, and to define the nature of the duties to be performed by it and its organisation and procedure

An Order establishing any such Council may make provision for representatives of Indian States to parti
10 cipate in the work of the Council

PART VII

FINANCE PROPERTY CONTRACTS AND SUITS

CHAPTER I

FINANCE

15 *Distribution of Revenues between Federation and Federal Units*

Meaning of revenues of Federation and revenues of Province

134. Subject to the following provisions of this chapter with respect to the assignment of the whole or part of the net proceeds of certain taxes and duties
20 to Provinces and Federated States and subject to the provisions of this Act with respect to the Federal Railway Authority, the expression "revenues of the Federation includes all revenues and public moneys raised or received by the Federation and the expression
25 "revenues of the Province includes all revenues and public moneys raised or received by a Province

Certain succession duties stamp duties terminal taxes on and taxes fares and freights

135. Duties in respect of succession to property other than agricultural land such stamp duties as are mentioned in the Federal Legislative List, terminal taxes
30 on goods or passengers carried by railway, water or air, and taxes on railway fares and freights, shall be levied and collected by the Federation but the net proceeds in any financial year of any such duty or tax except in so far as those proceeds represent proceeds attributable to
35 Chief Commissioners' Provinces shall not form part of the revenues of the Federation but shall be assigned to the Provinces and to the Federated States if any within which that duty or tax is leviable in that year and shall be distributed among the Provinces and those States in
40 accordance with such principles of distribution as may be formulated by Act of the Federal Legislature

A D 1935
PART VII —cont

Provided that the Federal Legislature may at any time increase any of the said duties or taxes by a surcharge for Federal purposes and the whole proceeds of any such surcharge shall form part of the revenues of the Federation 5

Taxes on income

136.—(1) Taxes on income other than income from agricultural land shall be levied and collected by the Federation, but a prescribed percentage of the net proceeds in any financial year of any such tax other than a corporation tax except in so far as those 10 proceeds represent proceeds attributable to Chief Commissioners' Provinces or to taxes payable in respect of Federal emoluments shall not form part of the revenues of the Federation, but shall be assigned to the Provinces and to the Federated States if any within which that tax is leviable in that year and shall be distributed among the Provinces and those States in such manner as may be prescribed

Provided that the Federal Legislature may at any time increase the said taxes by a surcharge for Federal purposes and the whole proceeds of any such surcharge shall form part of the revenues of the Federation

(2) Notwithstanding anything in the preceding subsection the Federation may retain out of the moneys assigned by that subsection to Provinces and States—

(*a*) in each year of a prescribed period such sum as m be prescribed, and

(*b*) in each year of a further prescribed period a sum less than that retained in the preceding year by an amount, being the same amount in each year, so calculated that the sum to be retained in the last year of the period will be equal to the amount of each such annual reduction

Provided that the Governor General in his discretion may in any year of the second prescribed period direct that the sum to be retained by the Federation in that year shall be the sum retained in the preceding year, and that the second prescribed period shall be correspondingly extended, but he shall not give any such direction except after consultation with such representatives of Federal and Provincial interests as he may think desirable, nor shall he give any such direction

unless he is satisfied that the maintenance of the financial stability of the Federal Government requires him so to do

(3) Where an Act of the Federal Legislature imposes a surcharge for Federal purposes under this section, the Act shall provide for the payment by each Federated State in which taxes on income other than a corporation tax are not leviable by the Federation a contribution to the revenues of the Federation assessed on such basis as may be prescribed with a view to securing that the contribution shall be the equivalent, as near as may be, of the proceeds which it is estimated would result from the surcharge if it were leviable in that State, and the State shall become liable to pay that contribution accordingly

(4) In this section—

"prescribed" means prescribed by His Majesty in Council, and

"Federal emoluments" includes all emoluments and pensions payable out of the revenues of the Federation or of the Federal Railway Authority in respect of which income tax is chargeable

Salt duties, excise duties and export duties

137.—(1) Duties on salt, Federal duties of excise and export duties shall be levied and collected by the Federation but, if an Act of the Federal Legislature so provides there shall be paid out of the revenues of the Federation to the Provinces and to the Federated States, if any, to which the Act imposing the duty extends, sums equivalent to the whole or any part of the net proceeds of that duty, and those sums shall be distributed among the Provinces and those States in accordance with such principles of distribution as may be formulated by the Act

(2) Notwithstanding anything in the preceding sub section, one half, or such greater proportion as His Majesty in Council may determine, of the net proceeds in each year of any export duty on jute or jute products shall not form part of the revenues of the Federation, but shall be assigned to the Provinces or Federated States in which jute is grown in proportion to the respective amounts of jute grown therein

Prior sanction

138.—(1) No Bill or amendment which imposes or varies any tax or duty in which Provinces are interested,

A D 1935
PART VII —cont

Governor General required to Bills affecting taxation in which Provinces are interested

or which affects the principles on which under any of the foregoing provisions of this chapter moneys are or may be distributable to Provinces or States, or which imposes any such federal surcharge as is mentioned in the foregoing provisions of this chapter, shall be introduced or moved in either Chamber of the Federal Legislature except with the previous sanction of the Governor General in his discretion

(2) In this section the expression "tax or duty in which Provinces are interested" means—

(*a*) a tax or duty the whole or part of the net proceeds whereof are assigned to any Province or

(*b*) a tax or duty by reference to the net proceeds whereof sums are for the time being payable out of the revenues of the Federation to any Provinces

Grants from Federation to certain Provinces

139. Such sums as may be prescribed by His Majesty in Council shall be charged on the revenues of the Federation in each year as grants in aid of the revenues of such Provinces as His Majesty may determine to be in need of assistance and different sums may be prescribed for different Provinces

Provided that, except in the case of the North-West Frontier Province, no grant fixed under this section shall be increased by a subsequent Order unless an address has been presented to the Governor General by both Chambers of the Federal Legislature for submission to His Majesty, praying that the increase may be made

Power of Federation and Provinces to make grants

140. It shall be lawful for the Federation to make grants for any Provincial purpose or object or for any purpose or object of a Federated State, and for a Province to make grants for any Federal purpose or object

Savings

141.—(1) Nothing in the foregoing provisions of this chapter affects any duties or taxes levied in any Federated State otherwise than by virtue of an Act of the Federal Legislature applying in the State

(2) Any taxes, duties, cesses or fees which, on the first day of January, nineteen hundred and thirty-five, were being lawfully levied by any Provincial Government municipality or other local authority or body for the purposes of the Province, municipality, district or other local area may, notwithstanding that those taxes, duties cesses or fees are mentioned in the Federal Legislative List, continue to be levied and to be applied to the same purposes until provision to the contrary is made by the Federal Legislature

Definition of "net proceeds"

142.—(1) In the foregoing provisions of this chapter "net proceeds" means in relation to any tax or duty the proceeds thereof reduced by the cost of collection, and for the purposes of those provisions the net proceeds of any tax or duty, or of any part of any tax or duty, in or attributable to any area shall be ascertained and certified by the Auditor-General of India, whose certificates shall be final

(2) Subject as aforesaid, an Act of the Federal Legislature may, in any case where under this Part of this Act the proceeds of any duty or tax are, or may be, assigned to any Province or State, or a contribution is, or may be made to the revenues of the Federation by any State, provide for the manner in which the proceeds of any duty or tax and the amount of any contribution are to be calculated, for the times in each year and the manner at and in which any payments are to be made for the making of adjustments between one financial year and another, and for any other incidental or ancillary matters

The Crown and the States

Expenses of the Crown

143 There shall be paid to His Majesty by the Federation in each year the sums required to defray the expenses of His Majesty incurred in discharging the functions of the Crown in its relations with Indian States, including any payments in respect of any customary allowances to members of the family or servants of any former Ruler of any territories in India

Money payments from or by States to be receivable

144. All cash contributions from or by any Indian State which, if this Act had not been passed, would have formed part of the revenues of India, shall be received by His Majesty, and shall, if His Majesty

A.D 1935
PART VII
—*cont*

by His Majesty

has so directed be placed at the disposal of the Federation but nothing in this Act shall derogate from the right of His Majesty if he thinks fit so to do to remit at any time the whole or any part of any such contributions

Cash contributions and ceded *territories*

145 —(1) Subject to the provisions of sub section (3) of this section His Majesty may in signifying his acceptance of the Instrument of Accession of a State, agree to remit over a period not exceeding twenty years from the date of the accession of the State to the Federation any cash contributions payable by that State

(2) Subject as aforesaid where any territories have been voluntarily ceded to the Crown by a Federated State before the passing of this Act in return for specific military guarantees there shall be paid to that State if His Majesty in signifying his acceptance of the Instrument of Accession of that State so directs such sums as in the opinion of His Majesty ought to be paid in respect of any such cession as aforesaid

(3) Notwithstanding anything in this section—

(*a*) every such agreement or direction as aforesaid shall be such as to secure that no such remission or payment shall be made by virtue of the agreement or direction until the Provinces have begun to receive moneys under the section of this chapter relating to taxes on income and in the case of a remission that the remission shall be complete before the expiration of twenty years from the date of the accession to the Federation of the State in question or before the end of the second prescribed period referred to in sub section (2) of the said section, whichever first occurs and

(*b*) no contribution shall be remitted by virtue of any such agreement save in so far as it exceeds the value of any privilege or immunity enjoyed by the State, and

(*c*) in fixing the amount of any payments in respect of ceded territories account shall be taken of the value of any such privilege or immunity

A.D. 1935
PART VII.
—*cont.*

(4) This section shall apply in the case of any cash contributions the liability for which has before the passing of this Act been discharged by payment of a capital sum or sums, and accordingly His Majesty may agree that the capital sum or sums so paid shall be repaid either by instalments or otherwise, and such repayments shall be deemed to be remissions for the purposes of this section.

(5) In this chapter "cash contributions" means—

(*a*) contributions in acknowledgment of the suzerainty of His Majesty, including contributions payable in connection with any arrangement for the aid and protection of a State by His Majesty, and contributions in commutation of any obligation of a State to provide military assistance to His Majesty, or in respect of the maintenance by His Majesty of a special force for service in connection with a State, or in respect of the maintenance of local military forces or police, or in respect of the expenses of an agent;

(*b*) contributions fixed on the creation or restoration of a State, or on a re-grant or increase of territory, including annual payments for grants of land on perpetual tenure or for equalisation of the value of exchanged territory;

(*c*) contributions formerly payable to another State but now payable to His Majesty by right of conquest, assignment or lapse

(6) In this chapter "privilege or immunity" means ny such privilege or immunity of a financial character njoyed by or under any treaty or agreement, or by usage, s is hereinafter mentioned, that is to say—

(*a*) the retention of the right to levy sea customs, or to produce and sell untaxed salt;

(*b*) sums receivable in respect of the abandonment or surrender of the right to levy internal customs duties, or to produce or manufacture salt, or to tax salt or other commodities or goods in transit, or sums receivable in lieu of grants of free salt;

(*c*) privileges in respect of free service stamps or the free carriage of State mails on government business;

A D 1935
PART VII
—cont

(d) the privilege of entry free from customs duties of goods imported by sea and transported in bond to the State in question, and

(e) the right to issue currency notes

(7) The Instrument of Accession of a State may contain—

(a) a statement of the privileges and immunities enjoyed by the State,

(b) a statement of the annual value of any such privileges or immunities,

(c) in the case of a privilege or immunity the value of which is fluctuating or uncertain, provision for determining from time to time the value to be attributed thereto

(8) Subject to the provisions of the last preceding subsection, if any question arises whether a contribution, privilege, immunity or cession is a contribution, privilege, immunity or cession within the meaning of this chapter the decision of His Majesty shall be final

Certain payments to Federated States &c to be charged on Federal revenues

146. Any payments made under the last preceding section and any payments heretofore made to any State by the Governor General in Council or by any Local Government under any agreements made with that State before the passing of this Act shall be charged on the revenues of the Federation or on the revenues of the corresponding Province under this Act, as the case may be

Value of privileges and immunities to be set off against share of taxes &c assigned to Federated States

147. Where under the foregoing provisions of this chapter there is made by the Federation to a Federated State any payment or distribution of or calculated by reference to the net proceeds of any duty or tax, the value of any privilege or immunity enjoyed by that State which has not been otherwise taken into account shall be set off against the payment or distribution

Miscellaneous financial provisions

Expenditure defrayable out of Indian revenues

148. No burden shall be imposed on the revenues of the Federation or the Provinces except for the purposes of the government of India

Exercise by Governor General of certain powers with respect to Reserve Bank

149.—(1) The functions of the Governor-General with respect to the following matters shall be exercised by him in his discretion, that is to say—

(*a*) the appointment and removal from office of the Governor and Deputy Governors of the Reserve Bank of India, the approval of their salaries and allowances, and the fixing of their terms of office,

(*b*) the appointment of an officiating Governor or Deputy Governor of the Bank

(*c*) the supersession of the Central Board of the Bank and any action consequent thereon, and

(*d*) the liquidation of the Bank

(2) In nominating directors of the Reserve Bank of India and in removing from office any director nominated by him the Governor General shall exercise his individual judgment

Previous sanction of Governor General to legislation with respect to Reserve Bank currency and coinage

150. No Bill or amendment which affects the coinage or currency of the Federation or the constitution or functions of the Reserve Bank of India shall be introduced into or moved in either Chamber of the Federal Legislature without the previous sanction of the Governor General in his discretion

Exemption of certain property from taxation

151. Property vested in His Majesty for purposes of the government of the Federation shall save in so far as any Federal law may otherwise provide, be exempt from all taxes or imposts whether local or general imposed by a Province or Federated State

Adjustment in respect of certain expenses and pensions

152. Where under the provisions of this Act the expenses of any court or commission or the pension payable to or in respect of a person who has served under the Crown in India, are charged on the revenues of the Federation or the revenues of a Province then if—

(*a*) in the case of a charge on the revenues of the Federation the court or commission serves any of the separate needs of a Province or the person has served wholly or in part in connection with the affairs of a Province or

(*b*) in the case of a charge on the revenues of a

A.D. 1935
PART VII
—cont.

of the separate needs of the Federation or another Province, or the person has served wholly or in part in connection with the affairs of the Federation or another Province,

there shall be charged on and paid out of the revenues of 5 the Province or as the case may be the revenues of the Federation or of the other Province, such contribution in respect of the expenses or pension as may be agreed, or as may in default of agreement be determined by an arbitrator to be appointed by the Chief Justice of 10 India.

Duty of Federation and Provinces to supply Secretary of State with funds

153. The Federation and every Province shall secure that there are from time to time in the hands of the Secretary of State sufficient moneys to enable him to make such payments as he may have to make in respect 15 of any liability which falls to be met out of the revenues of the Federation or of the Province as the case may be.

Provisions as to relation of Burma monetary system with India

154. His Majesty in Council may make such provision as may appear to him to be necessary or proper for the purpose of giving effect to any arrangements with 20 respect to the monetary system of Burma in its relations with India and matters connected therewith and ancillary thereto being arrangements made before the commencement of Part III of this Act with the approval of the Secretary of State by the Governor of Burma in Council 25 with the Governor General in Council or any other persons.

Relief in respect of tax on income taxable both in India and Burma

155. His Majesty in Council may make provision for the grant of relief from any Federal tax on income in respect of income taxed or taxable in Burma. 30

Provisions as to customs duties, &c.

156. With a view to preventing undue disturbance of trade between India and Burma in the period immediately following the separation of India and Burma and with a view to safeguarding the economic interests of Burma during that period, His Majesty in Council may 35 give such directions as he thinks fit for those purposes with respect to the duties which are, while the Order is in force, to be levied on goods imported into or exported from India or Burma and with respect to ancillary and related matters. 40

CHAPTER II

Borrowing and Audit

Borrowing

Cessation of borrowing by Secretary of State in Council

157. Upon the commencement of Part III of this Act all powers vested in the Secretary of State in Council of borrowing on the security of the revenues of India shall cease and determine but nothing in this subsection affects the provisions of Part XIII of this Act with respect to borrowing in sterling by the Secretary of State

Federal Government may borrow on security of federal revenues

158. Subject to the provisions of Part XIII of this Act with respect to borrowing in sterling, the executive authority of the Federation extends to borowing upon the security of the revenues of the Federation within such limits as may from time to time be fixed by Act of the Federal Legislature and to the giving of guarantees within such limits as may be so fixed

Provincial Governments may borrow on security of provincial revenues

159.—(1) Subject to the provisions of this section the executive authority of a Province extends to borrowing upon the security of the revenues of the Province within such limits as may from time to time be fixed by the Act of the Provincial Legislature and to the giving of guarantees within such limits as may be so fixed

(2) The Federation may subject to such conditions if any as it may think fit to impose make loans to or give guarantees in respect of loans raised by any Province and any sums required for the purpose of making loans to a Province shall be charged on the revenues of the Federation

(3) A Province may not without the consent of the Federation borrow outside India nor without the like consent raise any loan if there is still outstanding any part of a loan made to the Province by the Federation or by the Governor General in Council or in respect of which a guarantee has been given by the Federation or by the Governor General in Council

A consent under this subsection may be granted subject to such conditions if any, as the Federation may think fit to impose

A D 1935
Part VII
—*cont*

(4) A consent required by the last preceding sub section shall not be unreasonably withheld nor sha the Federation refuse if sufficient cause is shown t make a loan to or to give a guarantee in respect of a loa raised by, a Province or seek to impose in respect of an of the matters aforesaid any condition which is u reasonable and if any dispute arises whether a refus of consent or a refusal to make a loan or to give guarantee, or any condition insisted upon, is or is n justifiable, the matter shall be referred to the Governo General and the decision of the Governor General in h discretion shall be final

Loans by Federal Government to States

160 The Federation may subject to such co ditions if any as it may think fit to impose mal loans to or give guarantees in respect of loans raise by any Federated State

Application of Colonial Stock Acts to stocks issued by Federation

161 —(1) The Colonial Stock Acts 1877 to 19 shall notwithstanding anything to the contrary in tho Acts apply in relation to sterling stock issued after tl establishment of the Federation and forming part the public debt of the Federation as they apply in relati to stock forming part of the public debt of any Britis Possession mentioned in those Acts so however th nothing in section twenty of the Colonial Stock Act, 187 shall be construed as compelling a person desirous bringing proceedings to proceed in the manner there specified and that until Parliament otherwise determin any conditions prescribed by the Treasury under section tv of the Colonial Stock Act 1900 shall be deemed to ha been complied with with respect to all such stock issued by the Federation

(2) The expression "colonial stock" in section eleve of the Trusts (Scotland) Act 1921 shall include ar stock in relation to which the said Acts apply by virtu of this section

(3) In paragraph (*d*) of subsection (1) of section or of the Trustee Act 1925 the words "or any othe securities the interest in sterling whereon is payable ou of and charged on the revenues of India" shall b repealed

Provided that notwithstanding anything in thi Act any securities which by virtue of the said word

were immediately before the commencement of Part III of this Act securities in which a trustee might invest trust funds shall continue to be securities in which a trustee may invest such funds.

Audit and Accounts.

Auditor-General of India.

162.—(1) There shall be an Auditor-General of India, who shall be appointed by His Majesty and shall only be removed from office in like manner and on the like grounds as a judge of the Federal Court.

(2) The conditions of service of the Auditor-General shall be such as may be prescribed by His Majesty in Council, and he shall not be eligible for further office under the Crown in India after he has ceased to hold his office:

Provided that neither the salary of an Auditor-General nor his rights in respect of leave of absence, pension or age of retirement shall be varied to his disadvantage after his appointment.

(3) The Auditor-General shall perform such duties and exercise such powers in relation to the accounts of the Federation and of the Provinces as may be prescribed by, or by rules made under, an Order of His Majesty in Council, or by any subsequent Act of the Federal Legislature varying or extending such an Order:

Provided that no Bill or amendment for the purpose aforesaid shall be introduced or moved without the previous sanction of the Governor-General in his discretion.

(4) The salary, allowances and pension payable to or in respect of an Auditor-General shall be charged on the revenues of the Federation.

Provincial Auditor-General.

163.—(1) If a Provincial Legislature after the expiration of two years from the commencement of Part III of this Act passes an Act charging the salary of an Auditor General for that Province on the revenues of the Province, an Auditor General of the Province may be appointed by His Majesty to perform the same duties and to exercise the same powers in relation to the audit of the accounts of the Province as would be performed and exercised by the Auditor-General

A.D 1935
PART VII
—cont

of India if an Auditor General of the Province had not been appointed

Provided that no appointment of an Auditor General in a Province shall be made until the expiration of at least three years from the date of the Act of the Provincial Legislature by which provision is made for an Auditor General of that Province

(2) The provisions of the last preceding section shall apply in relation to the Auditor General of a Province as they apply in relation to the Auditor General of India subject to the following modifications, that is to say—

(*a*) a person who is or has been Auditor General of a Province shall be eligible for appointment as Auditor General of India

(*b*) in subsection (3) of the said section for the reference to the Federal Legislature there shall be substituted a reference to the Provincial Legislature and for the reference to the Governor General there shall be substituted a reference to the Governor, and

(*c*) *in subsection (4) of the said section for the* reference to the revenues of the Federation there shall be substituted a reference to the revenues of the Province

Provided that nothing in this section shall derogate from the power of the Auditor General of India to give such directions in respect to the accounts of Provinces as are mentioned in the next succeeding section

Power of Auditor General of India to give directions as to accounts

164. The accounts of the Federation shall be kept in such form as the Auditor General of India may, with the approval of the Governor General prescribe and in so far as the Auditor General of India may, with the like approval, give any directions with regard to the methods or principles in accordance with which any accounts of Provinces ought to be kept, it shall be the duty of every Provincial Government to cause accounts to be kept accordingly

Audit reports

165. The reports of the Auditor General of India relating to the accounts of the Federation shall be submitted to the Governor General who shall cause them

A D 1935.
PART VII —*cont*

to be laid before the Federal Legislature, and the reports of the Auditor-General of India or of the Auditor General of the Province, as the case may be, relating to the accounts of a Province shall be submitted to the Governor
5 of the Province, who shall cause them to be laid before the Provincial Legislature

Auditor of Indian Home Accounts

166.—(1) There shall be an Auditor of Indian Home Accounts who shall be appointed by the Governor-General in his discretion and shall only be removed from
10 office in like manner and on the like grounds as a judge of the Federal Court

(2) The conditions of service of the Auditor of Indian Home Accounts shall be such as may be prescribed by the Governor General in his discretion

15 Provided that neither the salary of an Auditor of Indian Home Accounts nor his rights in respect of leave of absence pension or age of retirement shall be varied to his disadvantage after his appointment

(3) The Auditor of Indian Home Accounts shall
20 perform such duties and exercise such powers in relation to expenditure in the United Kingdom from the revenues of the Federation of the Federal Railway Authority or of any Province as may be prescribed by, or by rules made under an Order of His Majesty in Council
25 or by any Act of the Federal Legislature varying or extending such an Order

Provided that no Bill or amendment for the purpose aforesaid shall be introduced or moved without the prior sanction of the Governor General in his discretion

30 (4) The reports of the Auditor of Indian Home Accounts relating to such expenditure as aforesaid shall be submitted to the Auditor General of India or in the case of expenditure from the revenues of a Province which has an Auditor General to the Auditor General
35 of the Province and shall be included by any such Auditor General in the reports which under this Part of this Act he is required to submit to the Governor General or as the case may be to the Governor

(5) The Auditor of Indian Home Accounts shall be
40 subject to the general superintendence of the Auditor-General of India

A D 1935
PART VII
—*cont*

(6) The salary, allowances and pension payable to or in respect of the Auditor of Indian Home Accounts shall be charged on the revenues of the Federation

(7) His Majesty in Council may require the Auditor of Indian Home Accounts to perform in relation to Burma all or any of the functions which he performs in relation to India and may fix the payments to be made in respect of his services from the revenues of Burma to the revenues of the Federation and may make such incidental and consequential provision as may appear to him to be proper

Audit of accounts relating to the discharge of the functions of the Crown in relation to *Indian* States.

167. The accounts relating to the discharge of the functions of the Crown in its relations with Indian States shall be audited by the Auditor General of India, or in so far as those accounts concern expenditure in the United Kingdom by the Auditor of Indian Home Accounts acting on his behalf and under his general superintendence and the Auditor General of India shall make to the Secretary of State annual reports on the accounts so audited by him or on his behalf

CHAPTER III

PROPERTY CONTRACTS LIABILITIES AND SUITS

Vesting of lands and buildings

168.—(1) All lands and buildings which immediately before the commencement of Part III of this Act were vested in His Majesty for the purposes of the government of India shall as from that date—

(*a*) in the case of lands and buildings which are situate in a Province, vest in His Majesty for the purposes of the government of that Province unless they were at that date used for purposes of the Governor General in Council otherwise than under a tenancy agreement between him and the Government of that Province

(*b*) in the case of lands and buildings which are situate in a Province but do not by virtue of the preceding paragraph vest in His Majesty for the purposes of the government of that Province, and in the case of lands and buildings which are situate in India elsewhere than in a Province vest in His Majesty for the purposes of the

government of the Federation or for the purposes of the exercise of the function of the Crown in its relations with Indian States according to the purpose for which they were used at the said date, and

(c) in the case of lands and buildings which are situate elsewhere than in India (except lands and buildings situate in Burma or Aden), vest in His Majesty for the purposes of the government of the Federation or if they were at that date used for purposes of the department of the Secretary of State in Council for the purposes of His Majesty's Government in the United Kingdom

(2) Except with the consent of the Governor General effect shall not be given to any proposal for the sale of any lands or buildings which by virtue of this section are vested in His Majesty for the purposes of His Majesty's Government in the United Kingdom or to any proposal for the diversion of any such lands and buildings to uses not connected with the discharge of the functions of the Crown in relation to India or Burma

(3) The provisions of this section shall apply in relation to the contents of buildings vested in His Majesty for the purposes of His Majesty's Government in the United Kingdom, other than any money or securities, as they apply in relation to the buildings themselves

Provided that in the case of such articles and classes of articles as may be agreed upon between the Secretary of State and the Governor-General, the provisions of subsection (2) of this section shall not apply

(4) Any question which may arise within the five years next following the commencement of Part III of this Act as to the purposes for which any lands or buildings are by virtue of this section vested in His Majesty may be determined by His Majesty in Council

Provisi[illegible] as to ot[illegible] propert[illegible]

169.—(1) Subject to the provisions of this and the last preceding section, all property which, by virtue of any delegation from the Secretary of State in Council or otherwise, is immediately before the commencement of Part III of this Act in the possession or under the control of the Governor-General in Council or of any Local Government

A D 1935
PART VII
—*cont*

for the purposes of the Government of India or of that Local Government shall on and after that date be deemed to be in the possession or under the control of the Federation or of the corresponding Province under this Act, as the case may be and all credits and debits of any Local Government in account with the Governor General in Council shall be deemed to be credits and debits of the corresponding Province under this Act in account with the Federation

(2) Subject as aforesaid, all property held by the Secretary of State in Council immediately before the commencement of Part III of this Act for the purposes of the government of India shall on and after that date be held by the Secretary of State for the purposes of the *Federation or of such of the Provinces if any as he may* determine according to the circumstances of the case

(3) Subject to the provisions of the last preceding section, all property which immediately before the commencement of Part III of this Act is held by the Secretary of State in Council for purposes connected with the discharge of the functions of the Crown in its relation with Indian States, or is by virtue of any delegation from him or otherwise in the possession or under the control of the Governor General in Council for those purposes shall be vested in His Majesty for the same purposes

(4) In this section "property" includes money securities bank balances and movable property of any description

(5) Nothing in this section applies to any property which by virtue of any delegation from the Secretary of State in Council or otherwise is immediately before the commencement of Part III of this Act in the possession or under the control of the Governor of Burma or any credits or debits of the Governor of Burma in Council in account with the Governor General in Council

(6) Nothing in this section shall affect any adjustments made or to be made by or under this Act by reason of the creation before the commencement of Part III of this Act of the Provinces of Orissa or Sind

Power to acquire property and to

170.—(1) The executive authority of the Federation and of a Province shall extend, subject to any Act of the appropriate Legislature, to the grant, sale, disposition

or mortgage of any property vested in His Majesty for the purposes of the government of the Federation or of the Province, as the case may be and to the purchase or acquisition of property on behalf of His Majesty for those purposes respectively and to the making of contracts

A.D. 1935
PART VII
—cont.
make contracts, &c.

Provided that any land or building used as an official residence of the Governor-General or a Governor shall not be sold, nor any change made in the purposes for which it is being used except with the concurrence, in his discretion of the Governor General or the Governor, as the case may be

(2) All property acquired for the purposes of the Federation or of a Province or of the exercise of the functions of the Crown in its relations with Indian States, as the case may be shall vest in His Majesty for those purposes

(3) All contracts made in the exercise of the executive authority of the Federation or of a Province shall be expressed to be made by the Governor General or by the Governor of the Province as the case may be and all such contracts and all assurances of property made in the exercise of that authority shall be executed on behalf of the Governor General or Governor by such persons and in such manner as he may direct or authorise

(4) Neither the Governor General nor the Governor of a Province nor the Secretary of State shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Act or for the purposes of the Government of India Act or of any Act repealed thereby nor shall any person making or executing any such contract or assurance on behalf of any of them be personally liable in respect thereof

Suits and proceedings

171.—(1) The Federation may sue or be sued by the name of the Federation of India and a Provincial Government may sue or be sued by the name of the Province and without prejudice to the subsequent provisions of this chapter may subject to any provisions which may be made by Act of the Federal or a Provincial Legislature sue or be sued in relation to their respective affairs in the like cases as the Secretary of State in Council might have sued or been sued if this Act had not been passed

A.D 1935

Part VII —*cont*

(2) Rules of court may provide that, where the Federation the Federal Railway Authority, or a Province sue or are sued in the United Kingdom, service of all proceedings may be effected upon the High Commissioner for India or such other representative in the United Kingdom of the Federation Authority or Province as may be specified in the rules

Existing contracts of Secretary of State in Council

172.—(1) Withou ... special pro visions of the next ... ng to loans guarantees and othe ... any contract made before the commencement of Part III of this Act by, or on behalf of the Secretary of State in Council shall, as from that date—

(*a*) if it was made in connection with the affairs of a Province have effect as if it had been made on behalf of that Province, and

(*b*) in any other case have effect as if it had been made on behalf of the Federation,

and any such contract may be enforced in accordance with the provisions of the next but one succeeding section

(2) This section does not apply in relation to contracts solely in connection with the affairs of Burma or Aden

Special provisions as to existing loans guarantees and other financial obligations

173.—(1) All liabilities in respect of such loans guarantees and other financial obligations of the Secretary of State in Council as are outstanding immediately before the commencement of Part III of this Act and were secured on the revenues of India shall, as from that date be liabilities of the Federation and shall be secured upon the revenues of the Federation and of all the Provinces

(2) All enactments relating to any such loans, guarantees and other financial obligations of the Secretary of State in Council as aforesaid shall in relation to those loans guarantees and obligations, continue to have effect with the substitution therein of references to the Secretary of State for references to the Secretary of State in Council and with such other modifications and such adaptations as His Majesty in Council may deem necessary

(3) No deduction in respect of taxation imposed by or under any existing Indian law or any law of the Federal or a Provincial Legislature shall be made from

A.D. 1935
PART VII.
—cont

any payment of principal or interest in respect of any securities, the interest whereon is payable in sterling, being a payment which would, but for the provisions of this Act, have fallen to be made by the Secretary of State in Council

(4) If in the case of any Local Government in India there are outstanding immediately before the commencement of Part III of this Act any loans or other financial obligations secured upon the revenues of the Province, all liabilities in respect of those loans and obligations shall as from that date, be liabilities of the Government of, and shall be secured upon the revenues of the corresponding Province under this Act

(5) Any liabilities in respect of any such loan guarantee or financial obligation as is mentioned in this section may be enforced in accordance with the provisions of the next succeeding section

Legal proceedings as to certain matters

174.—(1) Any proceedings which, if this Act had not been passed, might have been brought against the Secretary of State in Council may, in the case of any liability arising before the commencement of Part III of this Act or arising under any contract or statute made or passed before that date be brought against the Federation or a Province according to the subject matter of the proceedings or at the option of the person by whom the proceedings are brought, against the Secretary of State and any sum ordered to be paid by way of debt damages or costs in any such proceedings and any costs or expenses incurred in or in connection with the defence thereof shall be paid out of the revenues of the Federation or the Province as the case may be or, if the proceedings are brought against the Secretary of State out of such revenues as the Secretary of State may direct

The provisions of this subsection shall apply with respect to proceedings arising under any contract declared by the terms thereof to be supplemental to any such contract as is mentioned therein as they apply in relation to the contracts so mentioned

(2) If at the commencement of Part III of this Act any legal proceedings are pending in the United Kingdom or in India to which the Secretary of State in Council is a party the Secretary of State shall be

A D 1935
PART VII —*cont*

substituted in those proceedings for the Secretary of State in Council and the provisions of sub-section (1) of this section shall apply in relation to sums ordered to be paid and costs or expenses incurred, by the Secretary of State or the Secretary of State in Council in or in connection with any such proceedings as they apply in relation to sums ordered to be paid in and costs or expenses incurred in or in connection with the defence of proceedings brought against the Secretary of State under the said subsection (1)

(3) Any contract made in respect of the affairs of the Federation or a Province by or on behalf of the Secretary of State after the commencement of Part III of this Act may provide that any proceedings under that contract shall be brought in the United Kingdom by or against the Secretary of State and any such proceedings may be brought accordingly and any sum ordered to be paid by the Secretary of State by way of debt, damages or costs in any such proceedings and any costs or expenses incurred by the Secretary of State in or in connection therewith shall be paid out of the revenues of the Federation or the Province, as the case may be

(4) Nothing in this section shall be construed as imposing any liability upon the Exchequer of the United Kingdom in respect of any debt damages costs or expenses in or in connection with any proceedings brought or continued by or against the Secretary of State by virtue of this section or as derogating from the provisions of subsection (1) of the last preceding section

(5) This section does not apply in relation to contracts or liabilities solely in connection with the affairs of Burma or Aden

PART VIII

THE FEDERAL RAILWAY AUTHORITY

Executive authority in respect of railways to be exercised by Federal Railway Authority

175 The executive authority of the Federation in respect of the construction, maintenance and operation of railways in India shall be exercised by a Federal Railway Authority (hereinafter referred to as "the Authority")

Subject to the provisions of this Act such executive authority shall, in relation to railways operated by

railway companies under contracts with the Secretary of State in Council, extend to the exercise of all such powers in relation to construction, maintenance and operation, as immediately before the commencement of Part III of this Act were exercisable by, or on behalf of, the Secretary of State in Council or the Governor General in Council

A D 1935
PART VIII.
—*cont*

Composition &c of Railway Authority.

176.—(1) Not less than three sevenths of the members of the Authority shall be persons appointed by the Governor-General in his discretion and the Governor General shall in his discretion appoint a member of the Authority to be the President thereof

(2) Subject as aforesaid the provisions of the Eighth Schedule to this Act, as supplemented or amended by any Act of the Federal Legislature for the time being in force shall have effect with respect to the appointment, qualifications and conditions of service of members of the Authority, and with respect to the Authority's proceedings, executive staff and liability to income tax

Provided that, except with the previous sanction of the Governor General in his discretion there shall not be introduced into, or moved in either Chamber of the Federal Legislature any Bill or any amendment for supplementing or amending the provisions of the said Schedule

Directions and principles to be observed by Railway Authority

177.—(1) The Authority in discharging their functions under this Act shall act on business principles, due regard being had by them to the interests of agriculture, industry commerce and the general public and in particular shall make proper provision for meeting out of their receipts on revenue account all expenditure to which such receipts are applicable under the provisions of this Part of this Act

(2) In the discharge of their said functions the Authority shall be guided by such instructions on questions of policy as may be given to them by the Federal Government

(3) The provisions of subsection (1) of this section shall apply in relation to the discharge by the Federal Government of their functions with respect to railways as they apply in relation to the functions of the Authority,

A D 1935
PART VIII
—*cont*

but nothing in this subsection shall be construed as limiting the powers of the Governor-General under the next succeeding subsection

(4) The provisions of this Act relating to the special responsibilities of the Governor General and to his duty as regards certain matters to exercise his functions in his discretion or to exercise his individual judgment, shall apply as regards matters entrusted to the Authority as if the executive authority of the Federation in regard to those matters were vested in him and as if the functions of the Authority as regards those matters were the functions of ministers and the Governor General may issue to the Authority such directions as he may deem necessary as regards any matter which appears to him to involve any of his special responsibilities, or as regards which he is by or under this Act required to act in his discretion or to exercise his individual judgment and the Authority shall give effect to any directions so issued to them

Conduct of business between Railway Authority and Federal Government

178.—(1) The Governor General exercising his individual judgment but after consultation with the Authority, may make rules for the more convenient transaction of business arising out of the relations between the Federal Government and the Authority

(2) The rules shall include provisions requiring the Authority to transmit to the Federal Government such information with respect to their business as may be specified in the rules, or as the Governor General may otherwise require to be so transmitted, and in particular provisions requiring the Authority and their chief executive officer to bring to the notice of the Governor General any matter under consideration by the Authority or by that officer which involves, or appears to them or him likely to involve, any special responsibility of the Governor General

Acquisition and sale of land by, and contracts and liabilities of the Railway Authority

179 —(1) Except in such classes of case as may be specified in regulations to be made by the Federal Government, the Authority shall not acquire or dispose of any land, and when it is necessary for the Authority to acquire compulsorily any land for the purposes of their functions, the Federal Government shall acquire that land on their behalf and at their expense,

(2) Contracts made by or on behalf of the Authority shall be enforceable against the Authority and not against the Federation, and, subject to any provision which may hereafter be made by Act of the Federal Legislature, the Authority may sue and be sued in the like manner and in the like cases as a company operating a railway may sue and be sued

Provided that this subsection does not apply in relation to any contract declared by its terms to be supplemental to a contract made before the establishment of the Authority, and any such supplemental contract may be enforced in any manner in which the principal contract may be enforced

Finance of the Railway Authority

180.—(1) The Authority shall establish, maintain and control a fund (which shall be known as the "Railway Fund") and all moneys received by the Authority, whether on revenue account or on capital account, in the discharge of their functions and all moneys provided whether on revenue account or on capital account, out of the revenues of the Federation to enable them to discharge those functions shall be paid into that Fund and all expenditure whether on revenue account or on capital account required for the discharge of their functions shall be defrayed out of that Fund

Provided that nothing in this subsection shall prevent the Authority from establishing and maintaining separate provident funds for the benefit of persons who are or have been employed in connection with railways

(2) The receipts of the authority on revenue account in any financial year shall be applied in—

(*a*) defraying working expenses,

(*b*) meeting payments due under contracts or agreements to railway undertakings,

(*c*) paying pensions and interest and bonuses on, and contributions to, provident funds,

(*d*) making due provision for maintenance, renewals, improvements and depreciation,

(*e*) making to the revenues of the Federation any payments by way of interest which they are required by this Part of this Act to make, and

(*f*) defraying other expenses properly chargeable against revenue in that

A D 1935

Part VIII —*cont*

(3) Any surpluses on revenue account shown in the accounts of the Authority shall be apportioned between the Federation and the Authority in accordance with a scheme to be prepared and from time to time reviewed by the Federal Government or until such a scheme has been prepared in accordance with the principles which immediately before the establishment of the Authority regulated the application of surpluses in railway accounts and any sum apportioned to the Federation under this subsection shall be transferred accordingly and shall be form part of the revenues of the Federation

(4) The Federation may provide any moneys whether on revenue account or capital account for the purposes of the railway authority but where any moneys are so provided the provision thereof shall be deemed to be expenditure and shall accordingly be shown as such in the estimates of expenditure laid before the Chambers of the Legislature

Provisions as to certain obligations of the Railway Authority

181 (1) There shall be deemed to be owing from the Authority to the Federation such sum as may be agreed or in default of agreement determined by the Governor General in his discretion to be equivalent to the amount of the moneys provided whether before or after the passing of this Act out of the revenues of India or of the Federation for capital purposes in connection with railways in India (exclusive of Burma) and the Authority shall out of their receipts on revenue account pay to the Federation interest on that amount at such rate as may be so agreed or determined and also make payments in reduction of the principal of that amount in accordance with a repayment scheme so agreed or determined

For the purposes of this subsection where the Secretary of State in Council has assumed or incurred any obligation in connection with any such railways he shall be deemed to have provided for the said purposes an amount equal to the capital value of that obligation as shown in the accounts of the Government of India immediately before the establishment of the Authority

Nothing in this subsection shall be construed as preventing the Authority from making payments to the Federation in reduction of the principal of any such amount as aforesaid out of moneys other than receipts on revenue account

(2) It shall be an obligation of the Authority to pay to any province such sums as may be equivalent to the expenses incurred by that Province in the provision of police required for the maintenance of order on railway premises, and any question which may arise between the Authority and a Province as to the amount of any expenses so incurred shall be determined by the Governor General in his discretion

Investment of funds

182. Subject to such conditions, if any, as may be prescribed by the Federal Government, the Authority may from time to time invest any moneys in the railway fund or any provident fund which are not for the time being required to meet expenses properly defrayable out of that fund, and may, subject as aforesaid, from time to time transfer and realise investments made by them

Special provisions as to certain funds

183.—(1) Nothing in the foregoing provisions of this Part of this Act shall be construed as entitling the Authority to require that any moneys which immediately before the establishment of the Authority were held by the Governor General in Council on account of any railway depreciation fund, reserve fund or provident fund shall be transferred to the Authority for investment by them but the Authority may from time to time require the transfer to themselves of so much of any such fund as they require to defray expenditure chargeable against that fund and shall be entitled to receive, or to be credited with, interest at such rate as may be agreed, or, in default of agreement determined by the Governor General in his discretion on the untransferred balances or any such funds

(2) In this section references to any such fund as aforesaid shall be construed as references to so much of that fund as is not attributable to the railways of Burma

Audit and annual reports.

184.—(1) The accounts of the receipts and expenditure of the Authority shall be audited and certified by, or on behalf of the Auditor General of India

(2) The Authority shall publish annually a report of their operations during the preceding year and a statement of accounts in a form approved by the Auditor-General

A D 1935
Part VIII
—*cont*

Railway rates committee

185. The Governor-General may from time to time appoint a Railway Rates Committee to give advice to the Authority in connection with any dispute between persons using, or desiring to use a railway and the Authority as to rates or traffic facilities which he may require the Authority to refer to the committee

Bills and Amendments for regulating rates and fares to require recommendation of Governor General

186. A Bill or amendment making provision for regulating the rates or fares to be charged on any railway shall not be introduced or moved in either Chamber of the Federal Legislature except on the recommendation of the Governor General

Provisions for settlement of questions arising between the Railway Authority and the owners of railways in Indian States

187.—(1) If any question arises between the Authority and the Ruler of a Federated State who is the owner of a railway in that State as to whether the Authority are so exercising or are proposing so to exercise their powers whether in relation to the construction of new lines or otherwise as to refuse reasonable facilities for the traffic of that railway or to discriminate unfairly by the granting of undue preferences or otherwise, against that railway or to subject it to unfair or uneconomic competition that question shall if either party so desire be referred to a tribunal constituted in accordance with the provisions hereinafter contained and no Court shall have jurisdiction to entertain any question which might under this section have been so referred

(2) The Governor General in his discretion shall from time to time appoint a person, qualified as hereinafter mentioned to be the chairman of all tribunals which it may be necessary to constitute for the purposes of this section during that person's term of office, and the tribunal to which any question arising under this section is to be referred shall consist of that chairman and four other members of whom two shall be appointed by the Governor-General in his discretion and one by each of the parties to the dispute

Provided that the failure of either party to make such an appointment shall not invalidate the constitution or proceedings of the tribunal

(3) The tribunal shall give to the Authority and to the Ruler of the State and to such other persons as they think fit an opportunity of being heard, and the decision of a majority of the members of the tribunal,

or, if the members are equally divided in opinion, the decision of the Chairman, shall be the decision of the tribunal

(4) A person shall not be qualified to be appointed as the chairman of tribunals under this section unless he has held, or is qualified to hold, office as a judge of the Federal Court

(5) The Federal Court shall have jurisdiction to entertain an appeal on the ground that a question of law has been wrongly decided by a tribunal constituted for the purposes of this section, but save as aforesaid, no appeal shall lie from a decision of such a tribunal, nor shall any appeal lie from the decision of the Federal Court upon an appeal brought to that Court under this subsection

(6) Any Act of the Federal or any Provincial Legislature, or any law of a Federated State which is inconsistent with a decision of a tribunal constituted under this section or, as the case may be with such a decision as varied by the Federal Court shall whether the Act was passed or the law was made before or after the date of the decision, be invalid to the extent of the inconsistency

Saving for certain existing rights of railway companies

188.—(1) Without prejudice to the general provisions of this Act with respect to rights and liabilities under contracts made by or on behalf of the Secretary of State in Council the provisions of this section shall have effect with respect to any contract so made with a railway company which immediately before the commencement of Part III of this Act was operating a railway in British India

(2) If a dispute arises under any such contract between the railway company concerned and either the Authority or the Federal Government and if the contract contains a provision that such a dispute shall be referred to the Secretary of State in Council and that the railway company if dissatisfied with his decision may require the dispute to be referred to arbitration that provision shall have effect with the substitution of the Secretary of State for the Secretary of State in Council and accordingly the Federal Government shall refer the dispute to the Secretary of State and the Authority and the Federal Government shall give effect to any decision

A D 1935 PART VIII —*cont*

which the Secretary of State may give, or to any award which an arbitrator may make, in the matter

The Secretary of State shall not take any action or give any decision under this section except with the concurrence of his advisors

Official directors of Indian railway companies

189. Any powers of the Secretary of State in Council with respect to the appointment of directors and deputy directors of Indian railway companies shall be exercised by the Governor General in his discretion after consultation with the Authority

PART IX

THE JUDICATURE

CHAPTER I

The Federal Court

Establishment and constitution of Federal Court

190.—(1) There shall be a Federal Court consisting of a Chief Justice of India and such number of other judges as His Majesty may deem necessary, but unle and until an address has been presented by the Federa Legislature to the Governor General for submission t His Majesty praying for an increase in the number c judges, the number of puisne judges shall not exceed si

(2) Every judge of the Federal Court shall l appointed by His Majesty by warrant under the Roy Sign Manual and shall hold office until he attains tl age of sixty five years

Provided that—

(*a*) a judge may by resignation under his han addressed to the Governor General resign h office,

(*b*) a judge may be removed from his office b His Majesty by warrant under the Royal Sig Manual on the ground of misbehaviour or c infirmity of mind or body, if the Judici Committee of the Privy Council on referenc being made to them by His Majesty, repor that the judge ought on any such ground t be removed

A D 1935.
PART IX.
—*cont*

(3) A person shall not be qualified for appointment as a judge of the Federal Court unless he—

(*a*) has been for at least five years a judge of a High Court in British India or in a Federated State, or

(*b*) is a barrister of England or Northern Ireland of at least ten years standing, or a member of the Faculty of Advocates in Scotland of at least ten years standing, or

(*c*) has been for at least ten years a pleader of a High Court in British India or in a Federated State or of two or more such Courts in succession

In computing for the purposes of this subsection e standing of a barrister or a member of the Faculty of dvocates, or the period during which a person has been pleader, any period during which a person has held dicial office after he became a barrister, a member of e Faculty of Advocates or a pleader, as the case may , shall be included

(4) Every person appointed to be a judge of the ederal Court shall, before he enters upon his office, make id subscribe before the Governor General or some rson appointed by him an oath according to the form t out in that behalf in the Fourth Schedule to this ct

Salaries, &c of judges

191. The judges of the Federal Court shall be titled to such salaries and allowances including allow ices for expenses in respect of equipment and travelling on appointment, and to such rights in respect of ave and pensions, as may from time to time be ed by His Majesty in Council

Provided that neither the salary of a judge nor his ghts in respect of leave of absence or pension shall be ried to his disadvantage after his appointment

Temporary appointment acting Justic

192. If the office of Chief Justice of India becomes icant, or if the Chief Justice is, by reason of absence for any other reason, unable to perform the duties his office, those duties shall until some person ppointed by His Majesty to the vacant office has itered on the duties thereof, or until the Chief Justice is resumed his duties, as the case may be, be performed

A D 1935
PART IX
—*cont*

by such one of the other judges of the court as the Governor General may in his discretion appoint for the purpose

Seat of Federal Court

193. The Federal Court shall be a court of record and shall sit in Delhi and at such other place or places, if any, as the Chief Justice of India may, with the approval of the Governor General, from time to time appoint

Original jurisdiction of Federal Court

194—(1) Subject to the provisions of this Act, the Federal Court shall to the exclusion of any other court have an original jurisdiction in any dispute between any two or more of the following parties that is to say, the Federation, any of the Provinces or any of the Federated States, if and in so far as the dispute involves a matter of legal right

Provided that the said jurisdiction shall not extend to a dispute arising under any agreement, if the agreement otherwise expressly provides, or to a dispute to which a State is a party, unless the dispute concerns the application or interpretation of this Act or any Order in Council made thereunder or concerns some matter with respect to which the Federal Legislature has power to make laws in relation to that State

(2) The Federal Court in the exercise of its original jurisdiction shall not pronounce any judgment other than a declaratory judgment

Appellate jurisdiction of Federal Court in appeals from High Courts in British India

195—(1) An appeal shall lie to the Federal Court from any judgment, decree or final order of a High Court in British India, if the High Court certifies that the case involves a substantial question of law as to the application or interpretation of this Act or any Order in Council made thereunder, and it shall be the duty of every High Court in British India to consider in every case whether or not any such question is involved and of its own motion to give or to withhold a certificate accordingly

(2) Where such a certificate is given, any party in the case may appeal to the Federal Court on the ground that any such question as aforesaid has been wrongly decided, and on any ground on which that party could have appealed without special leave to His Majesty in Council if no such certificate had been given, and, with the

leave of the Federal Court, on any other ground, and no direct appeal shall lie to His Majesty in Council, either with or without special leave

Power of Federal Legislature to enlarge appellate jurisdiction

196.—(1) The Federal Legislature may by Act provide that in such civil cases as may be specified in the Act an appeal shall lie to the Federal Court from a judgment decree or final order of a High Court in British India without any such certificate as aforesaid, but no appeal shall lie under any such Act unless—

(a) the amount or value of the subject matter of the dispute in the court of first instance and still in dispute on appeal was and is not less than fifty thousand rupees or such other sum not less than fifteen thousand rupees as may be specified by the Act, or the judgment decree or final order involves directly or indirectly some claim or question respecting property of the like amount or value, or

(b) the Federal Court gives special leave to appeal

(2) If the Federal Legislature makes such provision as is mentioned in the last preceding subsection, consequential provision may also be made by Act of the Federal Legislature for the abolition in whole or in part of direct appeals in civil cases from High Courts in British India to His Majesty in Council, either with or without special leave

(3) A Bill or amendment for any of the purposes specified in this section shall not be introduced into, or moved in, either Chamber of the Federal Legislature without the previous sanction of the Governor General in his discretion

Appellate jurisdiction of Federal Court in appeals from High Courts in Federated States

197.—(1) An appeal shall lie to the Federal Court from a High Court in a Federated State on the ground that a question of law with respect to the application or interpretation of this Act or any Order in Council made thereunder has been wrongly decided

(2) An appeal under this section shall be by way of special case to be stated for the opinion of the Federal Court by the High Court, and the Federal Court may require a case to be so stated, or may return any case so stated in order that further facts may be stated therein

A.D 1935

PART IX —*cont*

Appeals to His Majesty in Council

198.—(1) An appeal may be brought to His Majesty in Council from a decision of the Federal Court by leave of the Federal Court or of His Majesty in Council

(2) Nothing in this Part of this Act shall be construed as derogating from any prerogative right of His Majesty to grant special leave to appeal in any criminal case

Form of judgment on appeal

199. The Federal Court shall, where it allows an appeal, remit the case to the court from which the appeal was brought with a declaration as to the judgment decree or order which is to be substituted for the judgment decree or order appealed against, and the court from which the appeal was brought shall give effect to the decision of the Federal Court

Enforcement of decrees and orders of Federal Court

200.—(1) All authorities civil and judicial throughout the Federation, shall act in aid of the Federal Court

(2) The Federal Court shall as respects British India and the Federated States have power to make any order for the purpose of securing the attendance of any person the discovery or production of any documents, or the investigation or punishment of any contempt of court which any High Court in British India has power to make as respects the territory within its jurisdiction and any such orders, and any orders of the Federal Court as to the costs of and incidental to any proceedings therein, shall be enforceable by all courts and authorities in every part of British India or of any Federated State as if they were orders duly made by the highest court exercising civil or criminal jurisdiction as the case may be, in that part

Letters of request to Federated States

201. Where in any case the Federal Court requires a special case to be stated or re stated by, or remits a case to, a High Court in a Federated State, or requires the aid of the civil or judicial authorities in a Federated State the Federal Court shall cause letters of request in that behalf to be sent to the Ruler of the State and the Ruler shall cause such communication to be made to the High Court or to any judicial or civil authority as the circumstances may require

Law declared by Federal Court and Privy Council to be binding on all courts

202. The law declared by the Federal Court and by any judgment of the Privy Council shall, so far as applicable, be recognised as binding on, and shall be followed by, all courts in British India, and, so far as respects the application and interpretation of this Act or any Order in Council thereunder or any matter with respect to which the Federal Legislature has power to make laws in relation to the State, in any Federated State

Power of Governor General to consult Federal Court

203. If at any time it appears to the Governor General that a question of law has arisen, or is likely to arise, which is of such a nature and of such public importance that it is expedient to obtain the opinion of the Federal Court upon it he may in his discretion refer the question to that court for consideration, and the court may, after such hearing as they think fit, report to the Governor General thereon

Rules of court &c

204.—(1) The Federal Court may from time to time, with the approval of the Governor General in his discretion, make rules of court for regulating generally the practice and procedure of the court, including rules as to the time within which appeals to the court are to be entered, as to the costs of and incidental to any proceedings in the court, and as to the fees to be charged in respect of proceedings therein and in particular may make rules providing for the summary determination of any appeal which appears to the court to be frivolous or vexatious or brought for the purpose of delay

(2) Rules made under this section may contain provisions enabling the Federal Court to sit in two or more divisions, and may specify the division in which in cases of any specified class the jurisdiction of the court is to be exercised and may fix the minimum number of judges who shall compose that division, so however that no case shall be heard before less than three judges

(3) Subject to the provisions of any rules of court, the Chief Justice of India shall determine what judges are to constitute any division of the court and what judges are to sit for any purpose

(4) No judgment shall be delivered by the Federal Court save in open court and with the concurrence of a majority of the judges present at the hearing of the case but nothing in this subsection shall be deemed to prevent

AD 1935

Part IX —cont

a judge who does not concur from delivering a dissenting judgment

(5) All proceedings in the Federal Court shall be in the English language

Powers of Federal Legislature

205. The Federal Legislature may make provision by Act for conferring upon the Federal Court such supplemental powers not inconsistent with any of the provisions of this Act as may appear to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by or under this Act

Expenses of Federal Court

206.—(1) The administrative expenses of the Federal Court including all salaries, allowances and pensions payable to or in respect of the officers and servants of the court, shall be charged upon the revenues of the Federation and any fees or other moneys taken by the court shall form part of those revenues

(2) The Governor General shall exercise his individual judgment as to the amount to be included in respect of the administrative expenses of the Federal Court in any estimates of expenditure laid by him before the Chambers of the Federal Legislature

Construction of references to High Courts in States

207. References in any provision of this Part of this Act to a High Court in a Federated State shall be construed as references to any court which His Majesty may, after communication with the Ruler of the State declare to be a High Court for the purposes of that provision

Savings

208. Nothing in this chapter shall be construed as conferring, or empowering the Federal Legislature to confer any right of appeal to the Federal Court in any case in which a High Court in British India is exercising jurisdiction on appeal from a court outside British India or as affecting any right of appeal in any such case to His Majesty in Council with or without leave

CHAPTER II

The High Courts in British India

Meaning of 'High Court'

209.—(1) The following courts shall in relation to British India be deemed to be High Courts for the purposes of this Act, that is to say, the High Courts in

Calcutta, Madras, Bombay, Allahabad, Lahore, and Patna, the Chief Court in Oudh, and the Judicial Commissioner's Courts in the Central Provinces and Berar, in the North West Frontier Province and in Sind, any other court in British India constituted or reconstituted under this chapter as a High Court, and any other comparable court in British India which His Majesty in Council may declare to be a High Court for the purposes of this Act

(2) The provisions of this chapter shall apply to every High Court in British India

Constitution of High Courts

210.—(1) Every High Court shall be a court of record and shall consist of a chief justice and such other judges as His Majesty may from time to time deem it necessary to appoint

Provided that the judges so appointed together with any additional judges appointed by the Governor in accordance with the following provisions of this chapter shall at no time exceed in number such maximum number as His Majesty in Council may fix in relation to that court

(2) Every judge of a High Court shall be appointed by His Majesty by warrant under the Royal Sign Manual and shall hold office until he attains the age of sixty years

Provided that—

(*a*) a judge may by resignation under his hand addressed to the Governor resign his office,

(*b*) a judge may be removed from his office by His Majesty by warrant under the Royal Sign Manual on the ground of misbehaviour or of infirmity of mind or body if the Judicial Committee of the Privy Council, on reference being made to them by His Majesty, report that the judge ought on any such ground to be removed

(3) A person shall not be qualified for appointment as a judge of a High Court unless he—

(*a*) is a barrister of England or Northern Ireland of at least ten years' standing or a member of the Faculty of Advocates in Scotland of at least ten years' standing, or

A.D 1935
PART IX
—*cont*

(*b*) is a member of the Indian Civil Service of at least ten years' standing, who has for at least three years served as, or exercised the powers of, a district judge, or

(*c*) has for at least five years held a judicial office in British India not inferior to that of a subordinate judge, or judge of a small cause court, or

(*d*) has for at least ten years been a pleader of any High Court or of two or more such Courts in succession

In computing for the purposes of this subsection the standing of a barrister or a member of the Faculty of Advocates or the period during which a person has been a pleader any period during which the person has held judicial office after he became a barrister, a member of the Faculty of Advocates, or a pleader, as the case may be, shall be included

(4) Every person appointed to be a judge of a High Court shall before he enters upon his office, make and subscribe before the Governor or some person appointed by him an oath according to the form set out in that behalf in the Fourth Schedule to this Act

Salaries &c, of judges

211. The judges of the several High Courts shall be entitled to such salaries and allowances including allowances for expenses in respect of equipment and travelling upon appointment and to such rights in respect of leave and pensions as may from time to time be fixed by His Majesty in Council

Provided that neither the salary of a judge, nor his rights in respect of leave of absence or pension, shall be varied to his disadvantage after his appointment

Temporary and additional appointments

212.—(1) If the office of chief justice of a High Court becomes vacant, or if any such chief justice is by reason of absence, or for any other reason, unable to perform the duties of his office, those duties shall, until some person appointed by His Majesty to the vacant office has entered on the duties thereof, or until the chief justice has resumed his duties as the case may be, be performed by such one of the other judges of the

court as the Governor of the Province may in his discretion think fit to appoint for the purpose

A D 1935
Part IX.
—cont

(2) If the office of any other judge of a High Court becomes vacant, or if any such judge is appointed to act temporarily as a chief justice, or is by reason of absence, or for any other reason, unable to perform the duties of his office, the Governor of the Province may in his discretion appoint a person duly qualified for appointment as a judge to act as a judge of that court, and the person so appointed shall, unless the Governor in his discretion thinks fit to revoke his appointment, be deemed to be a judge of that court until some person appointed by His Majesty to the vacant office has entered on the duties thereof, or until the permanent judge has resumed his duties

(3) If by reason of any temporary increase in the business of any High Court or by reason of arrears of work in any such court it appears to the Governor that the number of the judges of the court should be for the time being increased, the Governor in his discretion may, subject to the foregoing provisions of this chapter with respect to the maximum number of judges, appoint persons duly qualified for appointment as judges to be additional judges of the court for such period not exceeding two years as he may specify

Jurisdiction of existing High Courts

213 —(1) Subject to the provisions of this Part of this Act and to the provisions of any Act of the appropriate Legislature enacted by virtue of the powers conferred on that Legislature by this Act the jurisdiction of and the law administered in any existing High Court, and the respective powers of the judges thereof in relation to the administration of justice in the court including any power to make rules of court and to regulate the sittings of the court and of members thereof sitting alone or in division courts, shall be the same as immediately before the commencement of Part III of this Act

Provided that no High Court shall have any greater powers of superintendence over any subordinate courts than are together conferred by any letters patent any such Act as aforesaid any existing Indian law and the next succeeding section

A D 1935, PART IX —cont

Administrative functions of High Courts

214 Every High Court shall have administrative superintendence over all courts in India for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say,—

(a) call for returns, 5

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts,

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any 10 such courts, and

(d) settle tables of fees to be allowed to the sheriff attorneys and all clerks and officers of courts

Provided that such rules forms and tables shall not be inconsistent with the provision of any law for 15 the time being in force and shall require the previous approval of the Governor

Jurisdiction in revenue matters

215.—(1) Until otherwise provided by Act of the appropriate Legislature, no High Court shall have any original jurisdiction in any matter concerning the revenue or concerning any act ordered or done in the collection thereof according to the usage and practice of the country or the law for the time being in force

(2) A Bill or amendment for making such provision as aforesaid shall not be introduced into or moved in a Chamber of the Federal or a Provincial Legislature without the previous sanction of the Governor General in his discretion or, as the case may be, of the Governor in his discretion

Proceedings of High Courts to be in English

216. All proceedings in every High Court shall be in the English language

Expenses of a High Court

217.—(1) The administrative expenses of a High Court, including all salaries allowances and pensions payable to or in respect of the officers and servants of the court and the salaries and allowances of the judges of the court shall be charged upon the revenues of the Province and any fees or other moneys taken by the court shall form part of those revenues

(2) The Governor shall exercise his individual judgment as to the amount to be included in respect of such expenses as aforesaid in any estimates of expenditure laid by him before the Legislature

Power of His Majesty to constitute or reconstitute High Court by letters patent

5 **218**.—(1) His Majesty, if the Chamber or Chambers of the Legislature of any Province present an address in that behalf to the Governor of the Province for submission to His Majesty, may by letters patent constitute a High Court for that Province or any part 10 thereof or reconstitute in like manner any existing High Court for that Province or for any part thereof, or, where there are two High Courts in that Province, amalgamate those courts

(2) Where any Court is reconstituted, or two 15 Courts are amalgamated, as aforesaid, the letters patent shall provide for the continuance in their respective offices of the existing judges, officers and servants of the Court or Courts, and for the carrying on before the reconstituted Court or the new Court of all pending matters 20 and may contain such other provisions as may appear to His Majesty to be necessary by reason of the reconstitution or amalgamation

Extra provincial [illegible]

219.—(1) His Majesty in Council may if satisfied that an agreement in that behalf has [illegible] 25 the Governments concerned extend the [illegible] High Court in any Province to an [illegible] India not forming part of that Province, and the High Court shall thereupon have the same jurisdiction in relation to that area as it has in relation to any other 30 area in relation to which it exercises jurisdiction

(2) Nothing in this section affects the provisions of any law or letters patent in force immediately before the commencement of Part III of this Act empowering any High Court to exercise jurisdiction in relation to 35 more than one Province or in relation to a Province and an area not forming part of any Province

(3) Where a High Court exercises jurisdiction in relation to any area or areas outside the Province in which it has its principal seat nothing in this Act shall 40 be construed—

(*a*) as empowering the Legislature of the Province in which the Court has its principal seat to

A.D. 1935

PART IX —cont

increase, restrict or abolish that jurisdiction, or

(b) as preventing the Legislature having power to make laws in that behalf for any such area from passing such laws with respect to the jurisdiction of the court in relation to that area as it would be competent to pass if the principal seat of the court were in that area

Saving and definitions

220.—(1) Any judge appointed before the commencement of Part III of this Act to any High Court shall continue in office and shall be deemed to have been appointed under this Part of this Act, but shall not by virtue of this Act be required to relinquish his office at any earlier age than he would have been required so to do if this Act had not been passed

(2) Where a High Court exercises jurisdiction in relation to more than one Province or in relation to a Province and an area not forming part of a Province, references in this chapter to the Governor in relation to the judges and expenses of a High Court and references to the revenues of the Province shall be construed as references to the Governor and the revenues of the Province in which the Court has its principal seat, and the reference to the approval by the Governor of rules, forms and tables for subordinate courts shall be construed as a reference to the approval thereof by the Governor of the Province in which the subordinate court is situate, or, if it is situate in an area not forming part of a Province, by the Governor-General.

PART X

THE SERVICES OF THE CROWN IN INDIA

CHAPTER I

DEFENCE SERVICES

Pay, &c of Commander in Chief

221 The pay and allowances of the Commander-in-Chief of His Majesty's Forces in India and the other conditions of his service shall be such as His Majesty in Council may direct

222 (1) His Majesty in Council may require that appointments to such offices connected with defence as he may specify shall be made by him or in such manner as he may direct

(2) Nothing in this section derogates from any power vested in His Majesty by virtue of any Act or by virtue of his Royal Prerogative

Control of His Majesty as to defence appointments

223 The power of His Majesty, and of any person authorised in that behalf by His Majesty, to grant commissions in any naval, military or air force raised in India extends to the granting of a commission in any such force to any person who might be, or has been, lawfully enlisted or enrolled in that force

Eligibility for commissions in Indian Forces

224. Without prejudice to the generality of the powers conferred on him by this Act, the Secretary of State may from time to time specify what rules regulations and orders affecting the conditions of service of all or any of His Majesty's Forces in India shall be made only with his previous approval

Control of Secretary of State with respect to conditions of service

225. Nothing in this Act affects any right of appeal which members of His Majesty's Forces in India enjoyed immediately before the passing of this Act, and the Secretary of State may entertain any such memorial from a member of those Forces as the Secretary of State or the Secretary of State in Council, might previously have entertained

Saving of rights of appeal

226. Any sums payable out of the revenues of the Federation in respect of pay, allowances pensions or other sums payable to or in respect of, persons who are serving, or have served in His Majesty's forces shall be charged on those revenues but nothing herein contained shall be construed as limiting the interpretation of the general provisions of this Act charging on the said revenues expenditure with respect to defence

Pay &c of members of forces to be charged on Federal revenues

227. The provisions of the three last preceding sections shall apply in relation to persons who not being members of His Majesty's forces hold or have held, posts in India connected with the equipment or administration of those forces or otherwise connected with

Provisions as to certain civilian personnel

A.D 1935

PART X —cont

defence, as they apply in relation to persons who are or have been, members of those forces

King's India cadetships

228. In the appointment of officers to His Majesty's army the same provision as heretofore, or equal provision, shall be made for the appointment of sons of persons who have served in India in the military or civil service of the Crown

In this section the reference to persons who have served in India in the military or civil service of the Crown includes persons who have so served in Burma or in Aden before their respective separations from India

CHAPTER II.

CIVIL SERVICES

General Provisions

Tenure of office of persons employed in civil capacities in India

229.—(1) Except as expressly provided by this Act every person who is a member of a civil service of the Crown in India or holds any civil post under the Crown in India holds office during His Majesty's pleasure

(2) No such person as aforesaid shall be dismissed from the service of His Majesty by any authority subordinate to that by which he was appointed

(3) No such person as aforesaid shall be dismissed or reduced in rank until he has been given a reasonable opportunity of showing cause against the action proposed to be taken in regard to him

Provided that this subsection shall not apply—

(*a*) where a person is dismissed or reduced in rank on the ground of conduct which has led to his conviction on a criminal charge, or

(*b*) where an authority empowered to dismiss a person or reduce him in rank is satisfied that for some reason, to be recorded by that authority in writing, it is not reasonably practicable to give to that person an opportunity of showing cause

(4) Notwithstanding that a person holding a civil post under the Crown in India holds office during His

Majesty's pleasure, any contract under which a person, not being a member of a civil service of the Crown in India, is appointed under this Act to hold such a post may, if the Governor-General, or, as the case may be, the Governor, deems it necessary in order to secure the services of a person having special qualifications, provide for the payment to him of compensation if before the expiration of an agreed period that post is abolished or he is, for reasons not connected with any misconduct on his part, required to vacate that post.

Recruitment and conditions of service.

230.—(1) Except as expressly provided by this Act, appointments to the civil services of, and civil posts under, the Crown in India, shall, after the commencement of Part III of this Act, be made—

(*a*) in the case of services of the Federation, and posts in connection with the affairs of the Federation, by the Governor General or such person as he may direct;

(*b*) in the case of services of a Province, and posts in connection with the affairs of a Province, by the Governor or such person as he may direct.

(2) Except as expressly provided by this Act, the conditions of service of persons serving His Majesty in a civil capacity in India shall, subject to the provisions of this section, be such as may be prescribed—

(*a*) in the case of persons serving in connection with the affairs of the Federation, by rules made by the Governor General or by some person or persons authorised by the Governor General to make rules for the purpose;

(*b*) in the case of persons serving in connection with the affairs of a Province by rules made by the Governor of the Province or by some person or persons authorised by the Governor to make rules for the purpose.

(3) The said rules shall be so framed as to secure—

(*a*) that, in the case of a person who before the commencement of Part III of this Act was

D 1935

Part X —cont

serving His Majesty in a civil capacity in India no order which alters or interprets to his disadvantage any rule by which his conditions of service are regulated shall be made except by an authority which would have been competent to make such an order on the eighth day of March nineteen hundred and twenty six, or by some person empowered by the Secretary of State to give directions in that respect,

(*b*) that every such person as aforesaid shall have the same rights of appeal to the same authorities from any order which—

(i) punishes or formally censures him, or

(ii) alters or interprets to his disadvantage any rule by which his conditions of service are regulated, or

(iii) terminates his appointment otherwise than upon his reaching the age fixed for superannuation

as he would have had immediately before the commencement of Part III of this Act, or such similar rights of appeal to such corresponding authorities as may be directed by the Secretary of State or by some person empowered by the Secretary of State to give directions in that respect,

(*c*) that every other person serving His Majesty in a civil capacity in India shall have at least one appeal against any such order as aforesaid, *not being an order of the Governor General or* a Governor

(4) Notwithstanding anything in this section, but subject to any other provision of this Act, Acts of the appropriate Legislature in India may regulate the conditions of service of persons serving His Majesty in a civil capacity in India, and any rules made under this section shall have effect subject to the provisions of any such Act

Provided that nothing in any such Act shall have effect so as to deprive any person of any rights required

to be given to him by the provisions of the last preceding subsection

(5) No rules made under this section and no Act of any Legislature in India shall be construed to limit 5 or abridge the power of the Governor General or a Governor to deal with the case of any person serving His Majesty in a civil capacity in India in such manner as may appear to him to be just and equitable

Provided that where any such rule or Act is applic 10 able to the case of any person the case shall not be dealt with in any manner less favourable to him than that provided by that rule or Act

Application of preceding section to railway services and officials of courts

231.—(1) In its application to appointments to and to persons serving in, the railway services of the 15 Federation, the last preceding section shall have effect as if for any reference to the Governor General in paragraph (*a*) of subsection (1) in paragraph (*a*) of subsection (2) and in subsection (5) there were substituted a reference to the Federal Railway Authority

20 (2) In framing rules for the regulation of recruitment to superior railway posts the Federal Railway Authority shall consult the Federal Public Service Commission and in the recruitment of officers generally shall give effect to any instructions which may be issued by the Governor 25 General for the purpose of securing so far as practicable to each community in India a fair representation in the railway services of the Federation, but save as aforesaid it shall not be obligatory on the Authority to consult with or otherwise avail themselves of the services of the 30 Federal Public Service Commission

(3) In its application to appointments to and to persons serving on the staff attached to the Federal Court or the staff attached to a High Court, the said section shall have effect as if, in the case of the Federal 35 Court for any reference to the Governor General in paragraph (*a*) of subsection (1) in paragraph (*a*) of subsection (2) and in subsection (5) there were substituted a reference to the Chief Justice of India and as if in the case of a High Court for any reference to 40 the Governor in paragraph (*b*) of subsection (1), in paragraph (*b*) of subsection (2) and in subsection (5)

A.D 1935
PART X
—cont

there were substituted a reference to the chief justice of the court

Provided that—

(*a*) in the case of the Federal Court, the Governor General and in the case of a High Court, the Governor may in his discretion require that in such cases as he may in his discretion direct no person not already attached to the court shall be appointed to any office connected with the court save after consultation with the Federal Public Service Commission or the Provincial Public Service Commission, as the case may be,

(*b*) rules made under the said subsection (2) by a chief justice shall so far as they relate to salaries or pensions require the approval of the Governor General, or as the case may be the Governor

Special provisions as to police

232. Notwithstanding anything in the foregoing provisions of this chapter the conditions of service of the subordinate ranks of the various police forces in India shall be such as may be determined by or under the Acts relating to those forces respectively

Recruitment by Secretary of State and provisions as to certain posts

Services recruited by Secretary of State

233 —(1) As from the commencement of Part III of this Act appointments to the civil services known as the Indian Civil Service, the Indian Medical Service (Civil), and the Indian Police Service (which last mentioned service shall thereafter be known as "the Indian Police") shall be made by the Secretary of State

(2) The Secretary of State may also make appointments to any service or services which at any time after the said date he may deem it necessary to establish for the purpose of securing the recruitment of suitable persons to fill civil posts in connection with the discharge of any functions of the Governor General which the Governor General is by or under this Act required to exercise in his discretion

(3) The respective strengths of the said services shall be such as the Secretary of State may from time to time prescribe, and the Secretary of State shall in each

year cause to be laid before each House of Parliament a statement of the appointments made thereto and the vacancies therein

Special provision as to irrigation

234. If, after the commencement of Part III of this Act, circumstances arise which in the opinion of the Secretary of State render it necessary for him so to do in order to secure in any Province efficiency in irrigation, he may appoint persons to any civil service of, or civil post under, the Crown in India, concerned with irrigation

Reserved posts

235.—(1) The Secretary of State shall make rules specifying the number and character of the civil posts under the Crown (other than posts in connection with any functions of the Governor-General which the Governor General is by or under this Act required to exercise in his discretion), which are normally to be filled by persons appointed by the Secretary of State to a civil service of, or a civil post under, the Crown in India and except under such conditions as may be prescribed in the rules no such post shall, *without the previous sanction of* the Secretary of State—

(*a*) be kept vacant for more than three months, or
(*b*) be filled otherwise than by the appointment of such a person as aforesaid, or
(*c*) be held jointly with any other such post

(2) Appointments to the said posts (hereafter in this Part of this Act referred to as "reserved posts") shall—

(*a*) in the case of posts in connection with the affairs of the Federation, be made by the Governor General, exercising his individual judgment,
(*b*) in the case of posts in connection with the affairs of a Province, be made by the Governor of the Province, exercising his individual judgment

(3) All rules made under this section shall, so soon as may be after they are made, be laid before each House of Parliament and if either House of Parliament within the next subsequent twenty eight days on which that House has sat after any such rule has been laid before it resolves that the rule shall be annulled, the rule shall thenceforth be void but without prejudice to the validity of anything previously done thereunder or to the making of a new rule

A.D 1935
PART X —cont

Conditions of service pensions &c of persons recruited by Secretary of State

236.—(1) The conditions of service of all persons appointed to a civil service by the Secretary of State shall—

(*a*) as respects pay, leave and pensions, be such as may be prescribed by rules to be made by the Secretary of State

(*b*) as respects other matters with respect to which express provision is not made by this chapter be such as may be prescribed by rules to be made by the Secretary of State in so far as he thinks fit to make such rules, and, in so far and so long as provision is not made by such rules, by rules to be made, as respects persons serving in connection with the affairs of the Federation, by the Governor General or some person or persons authorised by the Governor General to make rules for the purpose and as respects persons serving in connection with the affairs of a Province by the Governor of the Province or some person or persons authorised by the Governor to make rules for the purpose

Provided that no rule made under this subsection shall have effect so as to give to any person appointed to a civil service by the Secretary of State less favourable terms as respects remuneration or pension than were given to him by the rules in force on the date on which he was first appointed to his service

(2) The salary and allowances of any such person as aforesaid shall if he is serving in connection with the affairs of the Federation be charged on the revenues of the Federation and, if he is serving in connection with the affairs of a Province, be charged on the revenues of the Province

(3) Pensions payable to or in respect of any such person as aforesaid, and government contributions in respect of any such person to any pension fund or provident fund, shall be charged on the revenues of the Federation

(4) No award of a pension less than the maximum pension allowable under rules made under this section shall be made, except in each case with the consent of the Secretary of State

(5) No rules made under this section shall be construed to limit or abridge the power of the Secretary of State to deal with the case of any person serving His Majesty in a civil capacity in India in such manner as may appear to him to be just and equitable, and no rules made under this section by any person other than the Secretary of State shall be construed to limit or abridge the power of the Governor-General or, as the case may be, the Governor of a Province to deal with the case of any such person in such manner as may appear to him to be just and equitable:

Provided that where any rule made under this section is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by the rule.

Rights in respect of complaints, appeals, &c.

237.—(1) If any person appointed to a civil service by the Secretary of State is aggrieved by an order affecting his conditions of service and on due application to the person by whom the order was made does not receive the redress to which he considers himself entitled, he may, without prejudice to any other mode of obtaining redress, complain, if he is serving in connection with the affairs of the Federation, to the Governor-General, and if he is serving in connection with the affairs of a Province, to the Governor of the Province, and the Governor-General or Governor, as the case may be, shall examine into the complaint and cause such action to be taken thereon as appears to him in his discretion to be just and equitable.

(2) No order which punishes or formally censures any such person as aforesaid or affects adversely his emoluments or rights in respect of pension or decides adversely to him the subject-matter of any memorial, shall be made except, if he is serving in connection with the affairs of the Federation, by the Governor-General, exercising his individual judgment, or, if he is serving in connection with the affairs of a Province, by the Governor of that Province, exercising his individual judgment.

(3) Any person appointed to a civil service by the Secretary of State may appeal to the Secretary of State against any order made by any authority in India which punishes or formally censures him, or alters or interprets to his disadvantage any rule by which his conditions of service are regulated.

A D 1935
PART X —cont

(4) Any sums ordered to be paid out of the revenues of the Federation or a Province to or in respect of any such person as aforesaid on an appeal made under this section shall be charged on those revenues

Compensation for loss of rights

238 —(1) If by reason of anything done under this Part of this Act the conditions of service of any person appointed to a civil service by the Secretary of State have been adversely affected, or if for any other reason it appears to the Secretary of State that compensation ought to be granted to, or in respect of, any such person, he or his representatives shall be entitled to receive from the revenues of the Federation, or if the Secretary of State so directs, from the revenues of a Province, such compensation as the Secretary of State may consider just and equitable

(2) Any sum payable under this section from the revenues of the Federation or the revenues of a Province shall be charged on the revenues of the Federation or, as the case may be, that Province

(3) For the avoidance of doubt it is hereby declared that the foregoing provisions of this section in no way prohibit expenditure by the Governor General, or, as the case may be the Governor, from the revenues of the Federation or a Province by way of compensation to persons who are serving or have served His Majesty in India in cases to which those provisions do not apply

Provisions as to persons appointed by Secretary of State in Council, persons holding reserved posts and commissioned officers in civil employment

Application of four last preceding sections to persons appointed by Secretary of State in Council, persons holding reserved posts.

239.—(1) Subject to the provisions of this section the provisions of the four last preceding section and any rules made thereunder shall apply in relation to any person who was appointed before the commencement of Part III of this Act by the Secretary of State in Council to a civil service of or a civil post under the Crown in India as they apply in relation to persons appointed to a civil service by the Secretary of State

(2) Subject to the provisions of this section the said sections and rules shall, in such cases and with such exceptions and modifications as the

Secretary of State may decide, also apply in relation to any person who—

A.D 1935

PART X, —cont and commissioned officers in civil employment

(a) not being a person appointed as aforesaid by the Secretary of State or the Secretary of State in Council, holds or has held a reserved post, or

(b) holds or has held any civil post under the Crown in India and is or was when he was first appointed to such a post an officer in His Majesty's forces

(3) In relation to any person who was appointed before the commencement of Part III of this Act to a civil service of, or to a civil post under, the Crown in India, the provision contained in the sections aforesaid that no rule as to conditions of service shall have effect so as to give to any person less favourable terms as regards remuneration or pension than were given to him by the rules in force on the date on which he was first appointed to his service, shall be construed as a provision that no such rule shall have effect so as to give to any person less favourable terms as respects the said matters than were given to him by the rules in force immediately before the coming into operation of the rule

(4) In its application, by virtue of this section, to persons serving in the railway services of the Federation, the second of the four last preceding sections (which relates to the conditions of service pensions, etc of persons recruited by the Secretary of State) shall have effect as if for any reference to the Governor General in paragraph (b) of subsection (1) thereof and in subsection (5) thereof there were substituted a reference to the Federal Railway Authority

Special provisions as to staffs of the High Commissioner for India and the Auditor of Indian Home Accounts

Staff of High Commissioner and Home Auditor

240. The provisions of this Part of this Act shall apply in relation to appointments to and to persons serving on the staffs of the High Commissioner for India and the Auditor of Indian Home Accounts as if the service of members of those staffs were service rendered in India

Provided that—

(a) appointments to the staff of the Auditor of Indian Home Accounts shall be made by him

A D 1935

Part X
—cont

subject, as respects numbers, salaries and qualifications to the approval of the Governor General in his discretion, and

(b) in relation to that staff the functions of the Governor General under this Part of this Act shall be exercised by him in his discretion

Conditions of service of staff of High Commissioner and Auditor of Indian Home Accounts

241.—(1) All persons who immediately before the commencement of Part III of this Act were members of the staff of the High Commissioner for India, or members of the staff of the Auditor of the accounts of the Secretary of State in Council shall continue to be, or shall become members of the staff of the High Commissioner for India or as the case may be of the Auditor of Indian Home Accounts

(2) All such persons as aforesaid shall hold their offices or posts subject to like conditions of service, as to remuneration pensions or otherwise as theretofore, or not less favourable conditions and shall be entitled to reckon for purposes of pension any service which they would have been entitled to reckon if this Act had not been passed

(3) The salaries allowances and pensions payable to or in respect of such of the persons as aforesaid as were members of the staff of the Auditor of the accounts of the Secretary of State in Council shall be charged on the revenues of the Federation and the salaries allowances and pensions payable to or in respect of other such persons as aforesaid shall be so charged in so far as those salaries allowances and pensions would but for the passing of this Act have been payable without being submitted to the vote of the Legislative Assembly of the Indian Legislature

Special Provisions as to Judicial Officers

Judges of the Federal Court and the High Courts

242.—(1) The provisions of this chapter shall not apply to the judges of the Federal Court or of any High Court

Provided that—

(a) for the purposes of this section a member of any of the civil services of the Crown in India who is acting temporarily as a judge of a High Court shall not be deemed to be a judge of that court

(*b*) nothing in this section shall be construed as preventing the Orders in Council relating to the salaries, leave and pensions of judges of the Federal Court or of any High Court from applying to such of those judges as were, before they were appointed judges, members of a civil service of the Crown in India, such of the rules relating to that service as may appear to His Majesty to be properly applicable in relation to them

(2) Any pension payable to or in respect of any person who having been a judge of the High Court at Rangoon retired before the commencement of Part III of this Act shall be charged on the revenues of the Federation

District judges &c

243.—(1) Appointments of persons to be and the posting and promotion of district judges in any Province shall be made by the Governor of the Province exercising his individual judgment, and the minister concerned shall before making any recommendation to the Governor as to any such appointment consult the High Court

(2) A person not already in the service of His Majesty shall only be eligible to be appointed a district judge if he is a barrister, a member of the Faculty of Advocates in Scotland or a pleader and is recommended by the High Court for appointment

(3) In this and the next succeeding section the expression "district judge" includes additional district judge, joint district judge, assistant district judge, sessions judge and additional sessions judge

Subordinate civil judicial service

244—(1) The Governor of each Province shall, after consultation with the Provincial Public Service Commission and with the High Court make rules defining the standard of qualifications to be attained by persons desirous of entering the subordinate civil judicial service of a Province

In this section, the expression "subordinate civil judicial service" *means a service* consisting exclusively of persons intended to fill civil judicial posts inferior to the post of district judge

(2) The Provincial Public Service Commission for each Province, after holding such examinations, if any,

A D 1935
PART X
—cont

as the Governor may think necessary, shall from time to time out of the candidates for appointment to the subordinate civil judicial service of the Province make a list or lists of the persons whom they consider fit for appointment to that service and appointments to that 5 service shall be made by the Governor from the persons included in the list or lists in accordance with such regulations as may from time to time be made by him as *to the number of persons in the said service* who are to belong to the different communities in the Province 10

(3) The posting and promotion of, and the grant of leave to persons belonging to the subordinate civil judicial service of a Province and holding any post inferior to the post of district judge shall be in the hands of the High Court but nothing in his section shall be 15 construed as taking away from any such person the right of appeal required to be given to him by the foregoing provisions of this chapter or as authorising the High Court to deal with any such person otherwise than in accordance with the conditions of his service prescribed 20 thereunder

Subordinate criminal magistracy

245 No recommendation shall be made for the grant of magisterial powers or of enhanced magisterial powers to any person save after consultation with the district magistrate of the district in which he is working 25

Special Provisions as to Political Department

Members of political department

246 —(1) Subject to the provisions of this section the provisions of this Part of this Act shall not apply in relation to persons wholly or mainly employed in connection with the exercise of the *functions of the* 30 Crown in its relations with Indian States

(2) Notwithstanding anything in the preceding subsection all persons so employed immediately before the commencement of Part III of this Act shall hold their offices or posts subject to the like conditions of 35 service as to remuneration pensions or otherwise as theretofore or not less favourable conditions and in relation to those persons anything which might but for the passing of this Act have been done by or in relation to the Secretary of State in Council shall be 40 done by or in relation to the Secretary of State acting with the concurrence of his advisers

(3) Nothing in this section shall be construed as affecting the application to such persons of the rule of law that except as otherwise provided by statute every person employed under the Crown holds office during His Majesty's pleasure

Provisions for the protection of certain existing officers

Provision for protection of existing officers of Central Services Class I and II and Provincial Services

247.—(1) No civil post which, immediately before the commencement of Part III of this Act, was a post in, or a post required to be held by some member of, a Central Service Class I a Central Service Class II, or a Provincial Service shall if the abolition thereof would adversely affect any person who immediately before the said date was a member of any such service be abolished except—

(*a*) in the case of a post in connection with the affairs of the Federation by the Governor General exercising his individual judgment,

(*b*) in the case of a post in connection with the affairs of a Province by the Governor of the Province exercising his individual judgment

(2) No rule or order affecting adversely the pay allowances or pensions payable to or in respect of, a person appointed before the coming into operation of this Part of this Act to a Central Service Class I or to a Provincial service and no order upon a memorial submitted by any such person shall be made except—

(*a*) in the case of a person who is serving or has served in connection with the affairs of the Federation by the Governor General exercising his individual judgment

(*b*) in the case of a person who is serving or has served in connection with the affairs of a Province by the Governor of the Province exercising his individual judgment

(3) In relation to any person mentioned in this section who was appointed to a civil service of the Crown in India by the Secretary of State or the Secretary of State in Council or is an officer in His Majesty's forces the foregoing provisions of this section shall have effect as if for the reference to the Governor General or the Governor, as the case may be there was substituted a reference to the Secretary of State

A.D 1935

PART X —*cont*

Provisions as to certain persons serving in or before 1924

248.—(1) The salary and allowances of any person who was appointed before the first day of April, nineteen hundred and twenty four otherwise than by the Secretary of State in Council to a service or a post which at any time between that date and the coming into operation of this Part of this Act was classified as a superior service or post shall be charged if he is serving in connection with the affairs of the Federation on the revenues of the Federation and if he is serving in connection with the affairs of a Province on the revenues of that Province

(2) Any pension payable to or in respect of a person appointed as aforesaid and any government contributions to any provident fund or pensions fund in respect of any such person shall be charged on the revenues of the Federation

(3) The provisions of the last preceding subsection shall also apply in relation to persons who retired before the first day of April, nineteen hundred and twenty-four, who before they retired belonged to services or held posts which were as from the said date classified as superior services or posts or which are declared by the Secretary of State to have been services or posts equivalent in character to services or posts so classified

General provisions as to persons retiring before commencement of Part III.

249.—(1) Except as otherwise expressly provided in this chapter, any pension payable to or in respect of any person who retired from the service of His Majesty before the commencement of Part III of this Act shall, if it would have been payable by the Local Government in any Province if this Act had not passed be paid out of the revenues of the corresponding Province

(2) Any pension payable to or in respect of any person who having served in Burma or Aden, retired from an All India Service, a Central Service Class I or a Central Service Class II, before the commencement of Part III of this Act shall be paid out of the revenues of the Federation but save as aforesaid nothing in this section applies to any person who retired after service in Burma or Aden

Miscellaneous

Secretary of State to act with approval of his advisers

250. The powers conferred by this chapter on the Secretary of State shall not be exercisable by him except with the concurrence of his advisers

Power by Order in Council to transfer certain powers of Secretary of State

251. His Majesty in Council may transfer to such uthority as may be specified in his Order all or any of ie powers conferred by this chapter on the Secretary of tate with respect to the making of appointments, but othing in any such Order shall affect the functions of ie Secretary of State in relation to persons appointed efore the Order comes into operation

Joint services and posts

252. If an agreement is made between the Federation and one or more Provinces, or between two or more rovinces, for the creation of a service common to the ederation and one or more Provinces or common to o or more Provinces or for the creation of posts the inctions whereof are not restricted to the affairs of the ederation or one Province the agreement may make rovision that the Governor General or any Governor any Public Service Commission, shall do in relation that service or post anything which would under the rovisions of this chapter be done by the Governor or ie Provincial Public Service Commission if the service post was a service or post in connection with the fairs of one Province only

CHAPTER III

PUBLIC SERVICE COMMISSIONS

Public Service Commissions

253.—(1) Subject to the provisions of this section ere shall be a Public Service Commission for the ederation and a Public Service Commission for each rovince

(2) Two or more Provinces may agree that—

(*a*) there shall be one Public Service Commission for that group of Provinces, or

(*b*) that the Public Service Commission for one of the Provinces shall serve the needs of all the Provinces,

nd any such agreement may contain such incidental and onsequential provisions as may appear necessary or esirable for giving effect to the purposes of the agreement and shall in the case of an agreement that there iall be one Commission for a group of Provinces specify what Governor or Governors the functions which are nder this Part of this Act to be discharged by the overnor of a Province are to be discharged

A D 1935
Part X —*cont*

(3) The Public Service Commission for the Federation if requested so to do by the Governor of a Province may with the approval of the Governor General agree to serve all or any of the needs of the Province

(4) References in this Act to the Federal Public Service Commission or a Provincial Public Service Commission shall unless the context otherwise requires be construed as references to the Commission serving the needs of the Federation or as the case may be the Province as respects the particular matter in question

Composition and staff of Commissions

254.—(1) The chairman and other members of a Public Service Commission shall be appointed, in the case of the Federal Commission by the Secretary of State and in the case of a Provincial Commission, by the Governor of the Province in his discretion

(2) In the case of the Federal Commission the Secretary of State and in the case of a Provincial Commission the Governor of the Province in his discretion may by regulations—

(*a*) determine the number of members of the commission their tenure of office and their conditions of service and

(*b*) make provision with respect to the numbers of staff of the commission and their conditions of service

(3) On ceasing to hold office—

(*a*) the chairman of the Federal Commission shall be ineligible for further employment under the Crown in India,

(*b*) the chairman of a Provincial Commission shall be eligible for appointment as the chairman or a member of the Federal Commission or as the chairman of another Provincial Commission but not for any other employment under the Crown in India,

(*c*) no other member of the Federal or of any Provincial Commission shall be eligible for any other appointment under the Crown in India without the approval, in the case of an appointment in connection with the affair

of a Province, of the Governor of the Province in his discretion and, in the case of any other appointment, of the Governor General in his discretion

AD 1935
PART X —*cont*

Functions of Public Service Commissions

255.—(1) It shall be the duty of the Federal and the Provincial Public Service Commissions to conduct examinations for appointments to the services of the Federation and the services of the Province respectively

(2) The Secretary of State as respects services and posts to which appointments are made by him the Governor General in his discretion as respects other services and posts in connection with the affairs of the Federation, and the Governor in his discretion as respects other services and posts in connection with the affairs of a Province, may make regulations specifying the matters on which either generally or in any particular class of case or in any particular circumstances it shall not be necessary for a Public Service Commission to be consulted but, subject to regulations so made and to the provisions of the next succeeding sub section, the Federal Commission or, as the case may be, the Provincial Commission shall be consulted—

(*a*) on all matters relating to methods of recruitment to civil services and for civil posts

(*b*) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments promotions or transfers

(*c*) on all disciplinary matters affecting a person serving His Majesty in a civil capacity in India, including memorials or petitions relating to such matters,

(*d*) on any claim by or in respect of a person who is serving or has served His Majesty in a civil capacity in India that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the revenues of the Federation or, as the case may be, the Province

A D 1935
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Part X
—cont

(*e*) on any claim for the award of a pension in respect of injuries sustained by a person while serving His Majesty in a civil capacity in India and any question as to the amount of any such award

and it shall be the duty of a Public Service Commission to advise on any matter so referred to them and on any other matter which the Governor General in his discretion or as the case may be the Governor in his discretion may refer to them

(3) Nothing in this section shall require a Public Service Commission to be consulted as respects the manner in which appointments and posts are to be allocated as between the various communities in the Federation or a Province

Power to extend functions of Public Service Commissions

256 Subject to the provisions of this section an Act of the Federal Legislature or the Provincial Legislature may provide for the exercise of additional functions by the Federal Public Service Commission or as the case may be by the Provincial Public Service Commission

Provided that—

(*a*) no Bill or amendment for the purposes aforesaid shall be introduced or moved without the previous sanction of the Governor General in his discretion or as the case may be of the Governor in his discretion and

(*b*) it shall be a term of every such Act that the functions conferred by it shall not be exercisable—

(i) in relation to any person appointed to a service or a post by the Secretary of State or the Secretary of State in Council any officer in His Majesty s Forces or any holder of a reserved post except with the consent of the Secretary of State or

(ii) where the Act is a provincial Act in relation to any person who is not a member of one of the services of the Province except with the consent of the Governor General

Expenses of Public Service Commissions

257. The expenses of the Federal or a Provincial Public Service Commission, including any salaries, allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the revenues of the Federation or, as the case may be the Province

Provided that nothing in this section shall charge on the revenues of a Province any pension which is by virtue of the provisions of chapter II of this Part of this Act charged on the revenues of the Federation

CHAPTER IV

CHAPLAINS

Provisions as to chaplains

258.—(1) There may, as heretofore, be an establishment of chaplains to minister in India to be appointed by the Secretary of State and the provisions of chapter II of this Part of this Act shall with any necessary modifications, apply in relation to that establishment and to persons appointed as chaplains by the Secretary of State or by the Secretary of State in Council as they apply in relation to the civil services to which appointments are to be made by the Secretary of State and to persons appointed to a civil service under the Crown in India by the Secretary of State or by the Secretary of State in Council

(2) So long as an establishment of chaplains is maintained in the Province of Bengal, two members of that establishment in the Province must always be ministers of the Church of Scotland and shall be entitled to have out of the revenues of the Federation such salary as is from time to time allotted to the military chaplains in that Province

This subsection applies to the Province of Madras and to the Province of Bombay as it applies to the Province of Bengal

(3) The ministers of the Church of Scotland so appointed chaplains must be ordained and inducted by the Presbytery of Edinburgh according to the forms and solemnities used in the Church of Scotland and shall be subject to the spiritual and ecclesiastical jurisdiction in all things of the Presbytery of Edinburgh whose judgments shall be subject to dissent protest and appeal to

A D 1935

Part X. —cont

the Provincial Synod of Lothian and Tweeddale and to the General Assembly of the Church of Scotland

CHAPTER V

General

Indemnity for past acts

259.—(1) No proceedings civil or criminal shall be instituted against any person in respect of any act done or purporting to be done in the execution of his duty as a servant of the Crown in India or Burma before the relevant date except with the consent, in the case of a person who was employed in connection with the affairs of the Government of India or the affairs of Burma, of the Governor General in his discretion, and in the case of a person employed in connection with the affairs of a Province of the Governor of that Province in his discretion

(2) Any civil or criminal proceedings instituted whether before or after the coming into operation of this Part of this Act against any person in respect of any act done or purporting to be done in the execution of his duty as a servant of the Crown in India or Burma before the relevant date shall be dismissed unless the court is satisfied that the acts complained of were not done in good faith, and where any such proceedings are dismissed the costs incurred by the defendant shall, in so far as they are not recoverable from the persons instituting the proceedings be charged in the case of persons employed in connection with the functions of the Governor General in Council or the affairs of Burma, on the revenues of the Federation and in the case of persons employed in connection with the affairs of a Province, on the revenues of that Province

(3) For the purposes of this section—

the expression "the relevant date" means in relation to acts done by persons employed about the affairs of a Province or about the affairs of Burma, the commencement of Part III of this Act, and in relation to acts done by persons employed about the affairs of the Federation the date of the establishment of the Federation;

references to persons employed in connection with the functions of the Governor-General in Council include references to persons employed in connection with the affairs of any Chief Commissioner's Province:

a person shall be deemed to have been employed about the affairs of a Province if he was employed about the affairs of the Province as constituted at the date when the act complained of occurred or is alleged to have occurred.

Exemption of pensions from Indian taxation.

260. Any pension payable to or in respect of a person who—

(*a*) before the commencement of Part III of this Act had served His Majesty in India, Burma or Aden, or elsewhere under the Governor-General in Council; or

(*b*) after the commencement of Part III of this Act—

(i) serves in India as an officer of His Majesty's forces, or

(ii) is appointed to a civil service of, or to an office or post under, the Crown in India by His Majesty or the Secretary of State; or

(iii) holds a reserved post,

shall be exempt from all taxation imposed by or under any existing Indian law or any law of the Federal or of a Provincial Legislature if the person to whom the pension is payable is residing permanently outside India.

Provision as to family pension funds.

261.—(1) His Majesty may by Order in Council provide for the vesting in Commissioners to be appointed under the Order of—

(*a*) the Indian Military Widows and Orphans Fund,

(*b*) the Superior Services (India) Family Pension Fund;

(*c*) a fund to be formed out of the moneys contributed and to be contributed under the Indian Military Service Family Pension Regulations for the purpose of paying pensions payable under those Regulations;

(*d*) a fund to be formed out of the moneys contributed and to be contributed under the Indian Civil Service Family Pension Rules for the purpose of paying pensions payable under those Rules,

for the investment of the said funds by the Commissioners, in such manner as, subject to the provisions of the Order, they think fit, for the administration of the said funds in other respects by the Secretary of State, for the remuneration of the Commissioners out of the said funds, and for any other matters incidental to or consequential on the purposes of the Order; and if any such Order is made, then, as from such date as may be specified in the Order, any pensions payable under the said Regulations and Rules, shall, subject to the provisions of subsection (3) of this section be payable out of the appropriate fund in the hands of the Commissioners, and not otherwise

(2) Any such Order as aforesaid shall provide that the balance in the hands of the Governor-General on the thirty-first day of March next following the passing of this Act in respect of the Indian Military Widows and Orphans Fund and the Superior Services (India) Family Pension Fund, and in respect of the moneys theretofore contributed under the Indian Military Service Family Pension Regulations and the Indian Civil Service Family Pension Rules shall, subject to the provisions of subsection (3) of this section, be transferred to the Commissioners before the expiration of three years from the said date either all at one time or by instalments, together with such interest as may be prescribed by or under the Order

Provided that His Majesty in Council may, if it appears to him necessary so to do, extend the said period of three years

(3) Any such Order as aforesaid shall provide for the making of objections by and on behalf of existing subscribers and beneficiaries to the vesting of any such fund as aforesaid in the Commissioners, and if any objection is so made in the manner and within the time limited by the Order—

(*a*) so much of any money in the hands of the Governor-General as represents the interest of

the objector shall not be transferred to the Commissioners but shall be dealt with as part of the revenues of the Federation, and

(*b*) in lieu of any pensions which might be payable out of the said funds to or in respect of the objectors there shall be payable out of the revenues of the Federation to and in respect of the said persons such pensions on such conditions as may be specified in rules to be made by the Secretary of State

(4) Any such Order as aforesaid may, notwithstanding anything in this Part of this Act or in the Regulations or Rules relating to the fund in question, provide for the making of such reductions in any pensions payable out of the fund to which the Order relates as may be reasonably necessary in consequence of the transfer effected under the Order

(5) Any interest or dividends received by the Commissioners on sums forming part of any fund vested in them under this section shall be exempt from income tax in the United Kingdom

(6) In this section—

references to the Indian Military Service Family Pension Regulations or the Indian Civil Service Family Pension Rules shall be construed as including references to any Regulations or Rules which may be substituted therefor,

the expression "existing subscribers and beneficiaries" means, in relation to the Indian Military Widows and Orphans Fund and the Superior Services (India) Family Pension Fund persons who have subscribed to, or are or have been in receipt of pensions from those funds, and, in relation to the funds to be formed out of the moneys contributed under the Indian Military Service Family Pension Regulations and the Indian Civil Service Family Pension Rules persons who have contributed under, or are or have been in receipt of pensions payable under the Regulations or Rules not being persons who have surrendered or forfeited their inter

A.D. 1935.
PART X.
—*cont.*

in the Fund or, as the case may be, their interest under the Regulations or Rules;

references to pensions payable under the said Regulations or the said Rules do not include references to any supplementary pension payable otherwise than out of the moneys contributed and to be contributed under those Regulations or Rules;

references to moneys so contributed or to be so contributed include references to interest upon such moneys.

(7) Notwithstanding anything in this Act, and in particular notwithstanding the separation of Burma and Aden from India, the provisions of this section shall apply in relation to persons who before the commencement of Part III of this Act were serving His Majesty in India, Burma or Aden, and after the commencement thereof continue to serve His Majesty in Burma or Aden as they apply in relation to other persons who are serving or have served His Majesty in India, and accordingly the Regulations and Rules relating to any such fund may apply in relation to any such persons as aforesaid.

If any Order in Council is made under this section and if provision in that behalf is made by the Acts or rules relating to conditions of service of persons serving His Majesty in Burma, the said Regulations and Rules may also extend to persons appointed to the service of the Crown in Burma after the commencement of Part III of this Act.

Transitional provisions.

262. Until other provision is made under the appropriate provisions of this Part of this Act, any rules made under the Government of India Act relating to the civil service of the Crown in India which were in force immediately before the commencement of Part III of this Act shall, notwithstanding the repeal of that Act, continue in force so far as consistent with this Act and shall then be deemed to be rules made under the appropriate provisions of this Act.

Interpretation, &c.

263.—(1) In this Part of this Act—

the expressions "Central Service Class I," "Central Service Class II" and "Provincial Service" mean respectively the services which

were immediately before the commencement of Part III of this Act, Central Services Class I, Central Services Class II and Provincial Services within the meaning of the classification rules then in force under section ninety six B of the Government of India Act, and

references to dismissal from His Majesty's service include references to removal from His Majesty's service

(2) The Rules Publication Act, 1893, shall not apply to any rules or regulations made under this Part of this Act

(3) References in this Part of this Act to persons appointed to a civil service of, or a civil post under the Crown in India do not include references to persons so appointed who after the commencement of Part III of this Act become members of a civil service of or hold civil posts under the Crown in Burma or Aden but do include references to persons who after service in Burma or Aden retired from the service of His Majesty before the said date

(4) The inclusion in this Part of this Act of provisions expressly requiring the Governor General or a Governor to exercise his individual judgment with respect to any matter shall not be construed as derogating from the special responsibility of the Governor General and the Governors for the securing to members of the public services of any rights provided for them by or under this Act and the safeguarding of their legitimate interests

PART XI

THE SECRETARY OF STATE HIS ADVISERS AND HIS DEPARTMENT

Advisers to Secretary of State

264 —(1) There shall be a body of persons appointed by the Secretary of State not being less than three nor more than six in number as the Secretary of State may from time to time determine whose duty it shall be to advise the Secretary of State on any matter relating to India on which he may desire their advice

A D 1935
PART X
—*cont*

in the Fund or, as the case may be, the interest under the Regulations or Rules

references to pensions payable under the said Regulations or the said Rules do not include references to any supplementary pension payable otherwise than out of the moneys contributed and to be contributed under those Regulations or Rules

references to moneys so contributed or to be so contributed, include references to interest upon such moneys

(7) N[illegible] in this Act and in particula[illegible]paration of Burma and Aden fr[illegible] of this section shall apply in relation to persons who, before the commencement of Part III of this Act were serving His Majesty in India Burma or Aden and after the commencement thereof continue to serve His Majesty in Burma or Aden as they apply in relation to other persons who are serving or have served His Majesty in India and accordingly the Regulations and Rules relating to any such fund may apply in relation to any such persons as aforesaid

If any Order in Council is made under this section and if provision in that behalf is made by the Acts or rules relating to conditions of service of persons serving His Majesty in Burma the said Regulations and Rules may also extend to persons appointed to the service of the Crown in Burma after the commencement of Part III of this Act

Transitional provisions

262 Until other provision is made under the appropriate provisions of this Part of this Act any rules made under the Government of India Act relating to the civil service of the Crown in India which were in force immediately before the commencement of Part III of this Act shall notwithstanding the repeal of that Act continue in force so far as consistent with this Act and shall then be deemed to be rules made under the appropriate provisions of this Act

Interpretation &c

263.—(1) In this Part of this Act—

the expressions "Central Service Class I" "Central Service Class II" and "Provincial Service" mean respectively the services which

(8) The Council of India as existing immediately before the commencement of Part III of this Act shall be dissolved

(9) Notwithstanding anything in the foregoing provisions of this section, a person who immediately before the commencement of Part III of this Act was a member of the Council of India may be appointed under this section as an adviser to the Secretary of State to hold office as such for such period less than five years as the Secretary of State may think fit

Existing accounts of Secretary of State in Council with Bank of England.

265.—(1) All stock or money standing to the credit of the Secretary of State in Council in the books of the Bank of England at the commencement of Part III of this Act shall, as from that date, be transferred to the credit of the Secretary of State and any order or instrument with respect to that stock or money executed by the Secretary of State or by such person as may be authorised in writing by the Secretary of State for the purpose, either generally or specially, shall be a sufficient authority and discharge to the Bank in respect of anything done by the Bank in accordance therewith

(2) Any directions, authority or power of attorney given or executed by or on behalf of the Secretary of State in Council and in force at the commencement of Part III of this Act shall continue in force until countermanded or revoked by the Secretary of State

Organisation and expenses of India Office

266.—(1) As from the commencement of Part III of this Act the salary of the Secretary of State and the expenses of his department including the salaries and remuneration of the staff thereof shall be paid out of moneys provided by Parliament

(2) Subject to the provisions of the next succeeding section with respect to the transfer of certain existing officers and servants, the Secretary of State may appoint such officers and servants as he, subject to the consent of the Treasury as to numbers may think fit and there shall be paid to persons so appointed such salaries or remuneration as the Treasury may from time to time determine

(3) There shall be charged on and paid out of the revenues of the Federation into the Exchequer such periodical or other sums as may from time to time be

A.D. 1935
PART XI
—*cont*

agreed between the Governor General and the Treasury in respect of so much of the expenses of the department of the Secretary of State as is attributable to the performance on behalf of the Federation of such functions as it may be agreed between the Secretary of State and the Governor General that that department should so perform

Transfer of existing personnel

267.—(1) All persons who immediately before the commencement of Part III of this Act were officers or servants on the permanent establishment of the Secretary of State in Council shall on that date be transferred to the department of the Secretary of State and shall be deemed to be permanent Civil Servants of the State

(2) Subject as hereinafter provided, the provisions of the Superannuation Acts 1834 to 1919, and of any orders rules and regulations made thereunder shall apply in relation to a person so transferred as aforesaid as they apply in relation to a person entering the Civil Service with a certificate from the Civil Service Commissioners, and for the purposes of those Acts, orders, rules and regulations his service shall be reckoned as if service on the permanent establishment of and employment by the Secretary of State in Council had at all times been service or employment in a public department the expenses whereof were wholly defrayed out of moneys provided by Parliament

Provided that the Superannuation Act, 1909, shall not apply in relation to any person so transferred, if that Act (as applicable to persons on the permanent establishment of the Secretary of State in Council) would not have applied to him if this Act had not been passed

(3) His Majesty may by Order in Council direct that in their application to any person so transferred the said Acts, orders rules and regulations shall have effect subject to any such modifications as may appear to His Majesty to be necessary for securing that the case of any such person shall not be dealt with in any manner less favourable to him that it would have been dealt with if this Act had not been passed and he had continued to serve on the establishment of the Secretary of State in Council

(4) All persons who not being on the permanent establishment of the Secretary of State in Council, were

immediately before the commencement of Part III of this Act officers or servants employed in the United Kingdom by the Secretary of State in Council shall on that date be transferred to the department of the Secretary of State and, for the purposes of the Superannuation Acts, 1834 to 1919, and the orders rules and regulations made thereunder, employment by the Secretary of State in Council shall be treated as if it had been employment by the Secretary of State

(5) If the conditions of service of any person to whom the last preceding subsection applies included a condition as to eligibility for a retiring allowance in consideration of meritorious service the Treasury may, if they think fit grant to him such an allowance on his retirement

(6) Notwithstanding anything in the Pensions Commutation Acts, 1877 to 1882 it shall be lawful for the Treasury to commute for a capital sum so much of any superannuation compensation or retiring allowance as is payable out of moneys provided by Parliament to a person so transferred as aforesaid and for the Secretary of State so to commute so much of any such allowance as is payable to such a person out of the revenues of the Federation

Any such commutation shall be made upon such conditions as His Majesty in Council may direct not being more favourable than the conditions which would have applied to the person in question if he had retired from the establishment of the Secretary of State in Council

Contributions from revenues of Federation

268 —(1) So much of any superannuation allowances, compensation allowances retiring allowances additional allowances or gratuities which may become payable to officers and servants transferred by the last preceding section to the department of the Secretary of State as His Majesty in Council may determine to represent the proportion of such allowances or gratuities attributable to service before the date of transfer shall be paid out of the revenues of the Federation

(2) If any officer or servant so transferred to the department of the Secretary of State or any person who having been previously on the establishment of the Secretary of State in Council was immediately before

A D 1935.
PART XI
—*cont*

the commencement of Part III of this Act a member of the staff of the High Commissioner for India, or any person who immediately before the commencement of Part III of this Act was the Auditor of the Accounts of the Secretary of State in Council or a member of his staff, loses his employment by reason of the abolition of his office or post, or by reason of any reorganisation of the department or of his office where such abolition or reorganisation results in the opinion of the Secretary of State from the operation of this Act, the Secretary of State shall award to that officer or servant out of the revenues of the Federation such compensation as he may think just and equitable in augmentation of any allowance or gratuity for which that officer or servant may be otherwise eligible

(3) Any payments directed by this section to be made out of the revenues of the Federation shall be charged upon those revenues

Liability for existing pensions

269. The liability for payment of any superannuation allowances compensation allowances retiring allowances additional allowances and gratuities which immediately before the commencement of Part III of this Act were payable to persons in respect of service on the establishment of the Secretary of State in Council or in respect of service as Auditor of the Accounts of the Secretary of State in Council or in respect of service as a member of that Auditor's staff or partly in respect of service on the establishment of the Secretary of State in Council or as a member of that Auditor's staff and partly in respect of service as a member of the staff of the High Commissioner for India shall be a liability of the Government of the Federation and those allowances and gratuities shall be charged upon the revenues of the Federation

PART XII

MISCELLANEOUS AND GENERAL

Aden

Aden.

270.—(1) On such date as His Majesty may by Order in Council appoint (in this section referred to as "the appointed day") the then existing Chief Commissioner's Province of Aden (in this section referred to as "Aden") shall cease to be a part of British India

(2) At any time after the passing of this Act it ... all be lawful for His Majesty in Council to make such ... rovision as he deems proper for the government of ... den after the appointed day and any such Order in ... ouncil may delegate to any person or persons within ... den power to make laws for the peace, order and good ... vernment of Aden, without prejudice to the power ... f His Majesty in Council notwithstanding such delega-... on, from time to time to make laws for any of the purposes ... foresaid

(3) An Order made by His Majesty in Council by ... rtue of the preceding subsection may without pre... udice to the generality of the words of that subsection, ... ntain provisions with respect to—

(a) the continuing validity of all Acts, orders, ordinances and regulations in force in Aden immediately before the appointed day

(b) the continuing validity of lawful acts done by any authority in Aden before the appointed day

(c) the validity and continuance of proceedings commenced before the appointed day in any Court of Justice in or having jurisdiction in, Aden and

(d) the enforcement by or against the Government of Aden of claims which if this Act had not been passed might have been enforced by or against the Secretary of State in Council in connection with the administration of Aden

(4) If any such Order is made it shall confer appel late jurisdiction from courts in Aden upon such court in India as may be specified in the Order, and it shall be the duty of any court in India upon which jurisdiction is so conferred to exercise that jurisdiction and such contribution if any as His Majesty in Council may determine shall be paid out of the revenues of Aden towards the expenses of that court

The Order shall also make provision specifying the cases in which an appeal from that court in India r... be brought to His Majesty in Council

(5) Lands and buildings in Aden which immediately before the separation of Aden from India were vested in

A.D 1935
PART XII.
—*cont*

His Majesty for the purposes of the Government of India shall as from that date vest in His Majesty for the purposes of the Government of Aden

New Provinces and alteration of boundaries of Provinces

Creation of new Provinces of Sind and Orissa

271 —(1) As from such date as His Majesty may by Order in Council appoint—

(*a*) Sind shall be separated from the Presidency of Bombay and shall form a Governor s Province to be known as the Province of Sind

(*b*) Orissa and such other areas in the Province of Bihar and Orissa as may be specified in the Order of His Majesty shall be separated from that Province and such areas as may be specified in the said Order shall be separated from the Presidency of Madras and the Central Provinces respectively and Orissa and the other areas so separated shall together form a Governor s Province to be known as the Province of Orissa and

(*c*) the Province formerly known as Bihar and Orissa shall be known as the Province of Bihar

(2) An Order in Council made under this section shall define the boundaries of the Provinces of Sind and Orissa and may contain—

(*a*) such provisions for their government and administration during the period before Part III of this Act comes into operation

(*b*) such provisions for varying during the said period the composition of the Local Legislature of any Presidency or Province the boundaries of which are altered under this section

(*c*) such provisions with respect to the laws which subject to amendment or repeal by the Provincial or as the case may be the Federal Legislature are to be in force in or in any part of Sind or Orissa respectively,

(*d*) such provisions with respect to apportionments and adjustments of and in respect of assets and liabilities and

(*e*) such supplemental, incidental and consequential provisions

as His Majesty may deem necessary or proper

(3) Subject to the provisions of any such Order as aforesaid, the Governor General in Council may until the date on which Part III of this Act comes into operation exercise in relation to the Provinces of Sind and Orissa and any Presidency or Province the boundaries of which are altered under this section any powers which he might have exercised if the said new Provinces had been constituted, or those boundaries had been altered, under the provisions in that behalf contained in the Government of India Act

(4) The High Court in Patna shall be the High Court for Orissa until other provision is made under this Act

(5) In this Act the expression "the Legislative Council of the Province" when used in relation to a date before the commencement of Part III of this Act shall in the case of Sind and Orissa be deemed to refer to the Legislative Councils of Bombay and of Bihar or Bihar and Orissa respectively

Alterations of boundaries of Provinces and creation of new Provinces

272.—(1) Subject to the provisions of this section His Majesty may by Order in Council alter the boundary of any Province if with a view to the creation of a new Province or on other grounds he deems it expedient so to do

Provided that, before the draft of any such Order is laid before Parliament, the Secretary of State shall take such steps as His Majesty may direct for ascertaining the views of the Federal Government and the Chambers of the Federal Legislature and the views of the Government and the Chamber or Chambers of the Legislature of any Province which will be affected by the Order both with respect to the proposal to make the Order and with respect to the provisions to be inserted therein

A.D. 1935.
PART XII.
—cont.

(2) An Order made under this section may do any one or more of the following things, that is to say—

(a) create a new Province;

(b) increase the area of a Province;

(c) diminish the area of a Province.

(3) An Order made under this section may contain such provisions for varying the representation in the Federal Legislature of any Governor's Province the boundaries of which are altered by the Order and for varying the composition of the Legislature of any such Province, such provisions with respect to apportionments and adjustments of and in respect of assets and liabilities, and such other supplemental, incidental and consequential provisions as His Majesty may deem necessary or proper:

Provided that no such Order shall vary the total membership of either Chamber of the Federal Legislature.

(4) In this section the expression "Province" means either a Governor's Province or a Chief Commissioner's Province.

Franchise

Power of His Majesty to make provision with respect to franchises and elections.

273. In so far as provision with respect to the matters hereinafter mentioned is not made by this Act, His Majesty in Council may from time to time make provision with respect to those matters or any of them, that is to say— 25

(a) the delimitation of territorial constituencies for the purpose of elections under this Act;

(b) the qualifications entitling persons to vote in territorial or other constituencies at such elections and the preparation of electoral rolls; 30

(c) the qualifications for being elected at such elections as a member of a legislative body or electoral college;

(d) the filling of casual vacancies in any such body or college; 35

(e) the conduct of elections under this Act and the methods of voting thereat;

(f) the expenses of candidates at such elections;

(g) corrupt practices and other offences at or in connection with such elections

(h) the decision of doubts and disputes arising out of or in connection with such elections

(i) matters ancillary to any such matter as aforesaid

Provisions as to certain legal matters

Continuation of existing laws

274 Notwithstanding the repeal by this Act of the Government of India Act but subject to the other provisions of this Act all the law in force in British India immediately before the commencement of Part III of this Act shall continue in force in British India until altered or repealed or amended by a competent Legislature or other competent authority

Adaptation of existing Indian laws

275 His Majesty may by Order in Council to be made at any time after the passing of this Act provide that as from such date as may be specified in the Order any law in force in British India or in any part of British India shall until repealed or amended by a competent Legislature or other competent authority have effect subject to such adaptations and modifications as appear to His Majesty to be necessary or expedient for bringing the provisions of that law into accord with the provisions of this Act and in particular into accord with the provisions thereof which reconstitute under different names governments and authorities in India and prescribe the distribution of legislative and executive powers between the Federation and the Provinces

In this section the expression law does not include an Act of Parliament but includes any ordinance order byelaw rule or regulation having in British India the force of law

Foreign jurisdiction

276 —(1) Any power or jurisdiction heretofore exercised on His Majesty s behalf in parts of India outside British India by virtue of the Foreign Jurisdiction Act 1890 or any Order in Council made under that Act or otherwise shall after the establishment of the Federation cease to be exercised in any Federated State in relation to any matter with respect to which the Federal Legislature has power to make laws for that State and the subjects thereof and subject as aforesaid shall after the commencement of Part III of this Act be exercised—

A.D 1935
Part XII
—*cont*

(*a*) in the tribal areas, by the Governor General in his discretion, and

(*b*) in any other part of India, by such person as His Majesty in Council may designate in that behalf

(2) Subject to the provisions of this section, any Order in Council with respect to the said power or jurisdiction made by virtue and in exercise of the powers by the Foreign Jurisdiction Act, 1890, or otherwise in His Majesty vested and all delegations, rules and orders made thereunder shall continue to be of full force and effect until revoked or amended by any other Order in Council or by the Governor General in his discretion, or by the person designated as aforesaid, as the case may be

(3) An Order in Council made by virtue and in exercise of the powers by the Foreign Jurisdiction Act 1890 or otherwise in His Majesty vested, empowering any person to make rules and orders in respect of courts or administrative authorities acting for any territory shall not be invalid by reason only that it confers or delegates powers to confer on courts or administrative authorities power to sit or act outside the territory in respect of which they have jurisdiction or functions, or that it confers or delegates power to confer appellate jurisdiction or functions on courts or administrative authorities sitting or acting outside the territory

(4) Nothing in this section affects the provisions of this Act with respect to Berar

Provisions as to death sentences

277—(1) Where any person has been sentenced to death in a Province the Governor General in his discretion shall have all such powers of suspension, remission or commutation of sentence as were vested in the Governor General in Council immediately before the commencement of Part III of this Act, but save as aforesaid no authority in India outside a Province shall have any power to suspend remit or commute the sentence of any person convicted in the Province

(2) Nothing in this Act shall derogate from the right of His Majesty or of the Governor-General if any such right is delegated to him by His Majesty, to grant pardons reprieves respites or remissions of punishment

A D 1935

PART XII
—*cont*

Courts of Appeal in revenue matters

278.—(1) No member of the Federal or a Provincial Legislature shall be a member of any tribunal having jurisdiction to entertain appeals in revenue matters

(2) If in any Province jurisdiction to entertain such appeals as aforesaid was, immediately before the commencement of Part III of this Act, vested in the Governor in Council, the Governor shall constitute a tribunal, consisting of such persons as he in his discretion thinks fit, to exercise the same jurisdiction until other provision in that behalf is made by Act of the Provincial Legislature

Persons not to be subjected to disability by reason of race, religion, &c

279.—(1) No subject of His Majesty domiciled in India shall on grounds only of religion, place of birth, descent colour or any of them be ineligible for office under the Crown in British India, or be prohibited on any such grounds from carrying on any trade, business or profession in British India

(2) Nothing in this section shall affect the operation of any law which—

(*a*) prohibits either absolutely or subject to exceptions the sale or mortgage of agricultural land in any particular area to any person not belonging to some class recognised by the law as being a class of persons engaged in or connected with agriculture in that area, or

(*b*) recognises the existence of some right privilege or disability attaching to members of a community by virtue of some personal law or custom having the force of law

Compulsory acquisition of land &c

280.—(1) No person in British India shall be deprived of his property save by authority of law

(2) Neither the Federal nor a Provincial Legisltaure shall have power to make any law authorising the compulsory acquisition for public purposes of land belonging to private persons unless the law provides for the payment of compensation for the property acquired

(3) No Bill or amendment making provision for the transference to public ownership of any land or for the extinguishment or modification of the rights of private persons therein including rights or privileges in respect of land revenue shall be introduced or moved in either

A.D 1935

Part XII —cont

Chamber of the Federal Legislature without the previous sanction of the Governor General in his discretion or in a Chamber of a Provincial Legislature without the previous sanction of the Governor in his discretion

(4) Nothing in this section shall affect the provisions of any law in force at the date of the passing of this Act

(5) In this section "land" includes immovable property of every kind and any rights in or over such property

Protection of rights of Jagirdars Inamdars, &c

281 —(1) The executive authority of the Federation or of a Province shall not be exercised save on an order of the Governor General or Governor, as the case may be in the exercise of his individual judgment so as to derogate from any grant of land or of any right or privilege in respect of land revenue made before the first day of January one thousand eight hundred and fifty eight or made on or after that date for services rendered

(2) Nothing in this section affects any remedy for a breach of any condition on which a grant was made

High Commissioner

High Commissioner for India

282.—(1) There shall be a High Commissioner for India in the United Kingdom who shall be appointed and whose salary and conditions of service shall be prescribed by the Governor General exercising his individual judgment

(2) The High Commissioner shall perform on behalf of the Federation such functions in connection with the business of the Federation and in particular in relation to the making of contracts as the Governor General may from time to time direct

(3) The High Commissioner may, with the approval of the Governor General and on such terms as may be agreed undertake to perform on behalf of a Province or Federated State or on behalf of Burma functions similar to those which he performs on behalf of the Federation

General Provisions.

Persons acting as Governor General or Governor

283 Any person appointed by His Majesty to act as Governor General or as the Governor of a Province during the absence of the Governor General or Governor from India or during any period during which

the Governor-General or the Governor is for any reason unable to perform the duties of his office shall while he is so acting have all the powers and be subject to all the duties of the Governor-General or Governor as the case may be and if he holds any other office shall not act therein or be entitled to the salary and allowances appertaining thereto while he is acting as Governor-General or Governor

No proceedings to lie against Governor General, Governor or Secretary of State

284. No proceedings whatsoever shall lie in any court in India against the Governor General against the Governor of a Province, or, subject to the foregoing provisions of Part VII of this Act, against the Secretary of State, whether in a personal capacity or otherwise in respect of anything done or omitted to be done by any of them during his term of office

Procedure as respects proposals for amendment of certain provisions of Act and Orders in Council

285.—(1) Subject to the provisions of this section, if the Federal Legislature or any Provincial Legislature, on motions proposed in each Chamber by a minister on behalf of the council of ministers pass a resolution recommending any such amendment of this Act or of an Order in Council made thereunder as is hereinafter mentioned and on motions proposed in like manner present to the Governor General or as the case may be to the Governor an address for submission to His Majesty praying that His Majesty may be pleased to communicate the resolution to Parliament the Secretary of State shall within six months after the resolution is so communicated cause to be laid before both Houses of Parliament a statement of any action which it may be proposed to take thereon

The Governor General or the Governor as the case may be when forwarding any such resolution and address to the Secretary of State shall transmit there with a statement of his opinion as to the effect which the making of the proposed amendment would have on the interests of any minority and the Secretary of State shall cause such statement to be laid before Parliament

(2) The amendments referred to in the preceding sub-section are—

(*a*) any amendment of the provisions relating to the size or composition of the Chambers of the Federal Legislature or to the method of choosing

A.D. 1935.

PART XII —*cont*

members of that Legislature, not being an amendment which would vary the proportion between the number of seats in the Council of State and the number of seats in the Federal Assembly or would vary, either as regards the Council of State or the Federal Assembly the proportion between the number of seats allotted to British India and the number of seats allotted to Indian States,

(*b*) any amendment of the provisions relating to the number of Chambers in a Provincial Legislature or the size or composition of the Chamber or of either Chamber, of a Provincial Legislature

(*c*) any amendment providing that in the case of women literacy shall be substituted for any higher educational standard for the time being required as a qualification for the franchise or providing that women if duly qualified shall be entered on electoral rolls without any application being made for the purpose on their behalf and

(*d*) any other amendment of the provisions relating to the qualifications entitling persons to be registered as voters for the purposes of election

(3) So far as regards any such amendment as is mentioned in paragraph (*c*) of the last preceding subsection the provisions of subsection (1) of this section shall apply to a resolution of a Provincial Legislature whenever passed but save as aforesaid those provisions shall not apply to any resolution passed before the expiration of ten years in the case of a resolution of the Federal Legislature from the establishment of the Federation and in the case of a resolution of a Provincial Legislature from the commencement of Part III of this Act

(4) His Majesty in Council may at any time whether the ten years referred to in the last preceding subsection have elapsed or not and whether any such address as is mentioned in this section has been submitted to His Majesty or not, make in the provision

f this Act any such amendment as is referred to in subsection (2) of this section

A.D 1935

PART XII, —*cont*

Provided that—

(i) if no such address has been submitted to His Majesty, then before the draft of any Order which it is proposed to submit to His Majesty is laid before Parliament the Secretary of State shall take such steps as His Majesty may direct for ascertaining the views of the Governments and Legislatures in India who would be affected by the proposed amendment

(ii) the provisions of Part II of the First Schedule to this Act shall not be amended without the consent of the Ruler of any State which will be affected by the amendment

Orders in Council

286 —(1) Subject as hereinafter provided, the Secretary of State shall lay before Parliament the draft of any Order which it is proposed to recommend His Majesty to make in Council under any provision of this Act which expressly authorises the making of such an Order, and no further proceedings shall be taken in relation thereto except in pursuance of an address presented to His Majesty by both Houses of Parliament praying that the Order may be made

Provided that if at any time when Parliament is dissolved or prorogued, or when both Houses of Parliament are adjourned for more than fourteen days the Secretary of State is of opinion that on account of urgency an Order in Council should be made under this Act forthwith it shall not be necessary for a draft of the Order to be laid before Parliament but the Order shall cease to have effect at the expiration of twenty eight days from the date on which the Commons House first sits after the making of the Order unless within that period resolutions approving the making of the Order are passed by both Houses of Parliament

(2) His Majesty in Council may by a subsequent Order made in accordance with the provisions of the preceding subsection revoke or vary any Order previously made by him in Coun[illegible]

A.D. 1935.

Temporary provisions

Part XII. —cont.

Elections may be held in advance of dates fixed for commencement of Parts II and III of Act

287.—(1) His Majesty may by Order in Council be made at any time after the passing of this Act pr that the first elections of persons to serve as member Provincial Legislatures or of the Federal Legisl shall be held in advance on such dates as will e these Legislatures to be fully constituted in accor with the provision of this Act before the date fixed the commencement of Part III of this Act or fo establishment of the Federation as the case may be

(2) If any such Order as aforesaid is ma Governor General and the Governors for the time of Provinces in British India shall have authority t all such steps and to issue to officers subordinate to all such orders and directions as may appear to h them to be necessary or expedient for securing tha object for which the Order is made is attained a particular but without prejudice to the general the foregoing words—

(a) for the preparation of electoral rolls;

(b) for the formation of electoral colleges;

(c) with respect to the nomination of cand and

(d) with respect to the holding and meth conducting elections including primar tions,

and it shall be the duty of all officers serving capacity under the Crown in India to give effect such orders or directions

The Governor General shall also request all of States concerned to give effect to the Order Majesty and to take all necessary steps for that pu

(3) A person shall not be disqualified fo elected or being a member of a Legislature elected the foregoing provisions of this section by reason fact that he holds an office of profit as a no member of the Executive Council of the G General or Governor or as a Minister in a Provinc

(4) A Legislature elected under the forego visions of this section shall be deemed to be

stituted as if the relevant provisions of this Act had n in force at all material dates

(5) Nothing in this section affects, or shall be conied as narrowing the interpretation of section thirtyen of the Interpretation Act, 1889

Temporary financial provisions.

288 —(1) The provisions of this section shall have ct for the purpose of removing any difficulty which y arise in securing that sufficient funds shall be ilable to enable the administration of a Province of the Federation to be carried on effectively during first year after the commencement of Part III of this or after the establishment of the Federation as the may be

(2) If it appears to him to be necessary so to do for purpose of removing any such difficulty as aforesaid, Governor of a Province may, with the approval of the ernor General, and the Governor General may, with approval of the Secretary of State declare that taxes or duties in force immediately before the mencement of Part III of this Act or immediately ore the establishment of the Federation as the case y be, shall, notwithstanding that they would otherwise ire, continue in force for such further period not eeding twelve months as he may deem necessary ess sooner varied or repealed by Act of the appropriate islature, and that all resolutions of a Legislature nting before the said date to demands for grants l all appropriations made before the said date shall tinue to have effect

Interpretation

Interpretation

289 —(1) In this Act and unless the context otherwise uires, in any other Act the following expressions have meanings hereby respectively assigned to them that is say —

"British India" means all territories for the time being comprised within the Governors Provinces and the Chief Commissioners Provinces

"India" means British India together with all territories of any Indian Ruler under the suzerainty of His Majesty, all territories under the suzerainty of such an Indian Ruler the

A D 1935
Part XII
—cont

tribal areas, and any other territories which His Majesty in Council may, from time to time after ascertaining the views of the Federal Government and the Federal Legislature, declare to be part of India,

"Burma" includes (subject to the exercise by His Majesty of any powers vested in him with respect to the alteration of the boundaries thereof) all territories which were immediately before the commencement of Part III of this Act comprised in India, being territories lying to the east of Assam Bengal and the State of Manipur

"British Burma" means so much of Burma as belongs to His Majesty,

"Tribal areas" means the areas along the frontiers of India or in Baluchistan which are not part of British India or of Burma or of any Indian State or of any foreign State,

"Indian State" includes any territory, whether described as a State, an Estate, a Jagir or otherwise, belonging to a Ruler under the suzerainty of His Majesty and not being part of British India

"Ruler" in relation to a State means the Prince Chief or other person recognised by His Majesty as the Ruler of the State

(2) In this Act unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them that is to say —

"agricultural income" means agricultural income as defined by any Act of the Federal Legislature or of the Indian Legislature relating to income tax

"agricultural land" means land any income from which would be agricultural income,

"borrow" includes the raising of money by the grant of annuities and "loan" and "debt" shall be construed accordingly,

"chief justice" includes in relation to a High Court a chief judge or judicial commissioner and "judge" includes an additional judicial commissioner,

"corporation tax" means any tax on so much of the income of companies as does not represent agricultural income being a tax to which the enactments requiring or authorising companies to make deductions in respect of income tax from payments of interest or dividends, or from other payments representing a distribution of profits, have no application

"corresponding Province" means in case of doubt such Province as may be determined by His Majesty in Council to be the corresponding Province for the particular purpose in question,

"existing Indian law means any law, ordinance, order, byelaw, rule or regulation passed or made by any legislature, authority or person in any territories for the time being comprised in India, being a legislature, authority or person having power to make such a law, ordinance, order, byelaw, rule or regulation,

"Local Government" means any such Governor in Council Governor acting with ministers, Lieutenant Governor in Council, Lieutenant-Governor or Chief Commissioner as was at the relevant time a Local Government for the purposes of the Government of India Act or any Act repealed by that Act, but does not, save where the context otherwise requires, include any Local Government in Burma or Aden,

"pension" means a pension, whether contributory or not, of any kind whatsoever payable to or in respect of a person in or formerly in the service of the Crown in India, and includes retired pay so payable, a gratuity so payable and any sum or sums so payable by way of the return, with or without interest, of subscriptions to a provident fund,

"pleader" includes advocate, and

"public notification" means a notification in the Gazette of India or, as the case may be, the official Gazette of a Province

A D 1935

Part XII. —*cont*

(3) In paragraph (3) of section eighteen of the Interpretation Act, 1889 (which paragraph defines the expression "colony") for the words "exclusive of the British Islands and of British India" there shall be substituted the words "exclusive of the British Islands and of British India and of British Burma"

(4) References in any Act of Parliament to India to British India to countries other than or situate outside India or other than or situate outside British India or His Majesty's dominions, to a British possession to the Secretary of State in Council, to the Governor General in Council, to a Governor in Council or to other authorities in or to matters relating to the government or administration of India or British India shall have effect subject to such modifications as His Majesty in Council may direct

(5) Any reference in this Act to Federal Acts or Provincial Acts or to Acts of the Federal or a Provincial Legislature shall be construed as including a reference to an ordinance made by the Governor General or a Governor General's Act or, as the case may be, to an ordinance made by a Governor or a Governor's Act

(6) References in this Act to the taking of an oath include references to the making of an affirmation

PART XIII

TRANSITIONAL PROVISIONS

Operation of Part XIII

290. The provisions of this Part of this Act shall apply with respect to the period elapsing between the commencement of Part III of this Act and the establishment of the Federation

Executive Government

291.—(1) Subject to the provisions of this Act for the time being in force, such executive authority as is hereinafter mentioned shall be exercised on behalf of His Majesty by the Governor General in Council

either directly or through officers subordinate to him, but nothing in this section shall prevent the Indian Legislature from conferring functions upon subordinate authorities, or be deemed to transfer to the Governor 5 General in Council any functions conferred by any existing Indian law on any court, judge or officer or on any local or other authority

(2) Subject to the provisions of this Act for the time being in force the said executive authority extends—

(a) to the matters with respect to which the Indian Legislature has under the said provisions, power to make laws,

(b) to the raising in British India on behalf of His Majesty of naval military or air forces, and to the governance of His Majesty's forces in India,

(c) to the exercise of such rights authority and jurisdiction as are exercisable by His Majesty by treaty, grant, usage, sufferance or otherwise in and in relation to the tribal areas,

Provided that—

(i) the said authority does not, save as expressly provided in the provisions of this Act for the time being in force, extend in any Province to matters with respect to which the Provincial Legislature has power to make laws,

(ii) the said authority does not extend to the enlistment or enrolment in any force raised in British India of any person unless he is either a subject of His Majesty or a native of India or of territories adjacent thereto, and

(iii) commissions in any such forces shall be granted by His Majesty save in so far as he may be pleased to delegate that power by virtue of the provisions of Part I of this Act or otherwise

A D 1935

PART XIII —*cont*

(3) References in the provisions of this Act for the time being in force to the Governor General and the Federal Government shall, except as respects matters with respect to which the Governor General is required by the said provisions to act in his discretion, be construed as references to the Governor General in Council, and any reference to the Federation except where the reference is to the establishment of the Federation, shall be construed as a reference to British India, the Governor General in Council or the Governor General, as the circumstances and the context may require

(4) Nothing in this section shall be construed as conferring on the Governor General in Council any functions connected with the exercise of the functions of the Crown in its relations with Indian States

Control of the Secretary of State

292 —(1) The Governor General in Council and the Governor General both as respects matters with respect to which he is required by or under this Act to act in his discretion and as respects other matters, shall be under the general control of and comply with such particular directions if any as may from time to time be given by the Secretary of State, but the validity of anything done by the Governor General in Council or the Governor General shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this subsection

(2) The Secretary of State shall not give any direction to the Governor General in Council with respect to any grant or appropriation of any part of the revenues of the Governor General in Council except with the concurrence of his advisers

(3) While this Part of this Act is in operation the advisers of the Secretary of State shall not be more than twelve nor less than eight, in number

Sterling loans

293 —(1) While this Part of this Act is in operation, no sterling loans shall be contracted by the Governor General in Council, but in lieu thereof if provision is made in that behalf by an East India Loans Act of the Parliament of the United Kingdom, the

Secretary of State may within such limits as may be specified by the Act contract such loans on behalf of the Governor General in Council

A.D. 1935.
Part XIII.—cont.

(2) The Secretary of State shall not exercise any such powers of borrowing as are mentioned in this section unless at a meeting of the Secretary of State and his advisers the borrowing has been approved by a majority of the persons present

(3) There shall be inserted

(a) in paragraph (d) of subsection (1) of section one of the Trustee Act 1925 after the words "on the revenues of India" and

(b) at the end of sub paragraph (9) of paragraph (a) of section ten of the Trusts (Scotland) Act, 1921

the words "or in any sterling loans raised by the Secretary of State on behalf of the Governor General of India in Council under the provisions of Part XIII of the Government of India Act 1935"

(4) Any legal proceedings in respect of any loan raised under this section may be brought in the United Kingdom against the Secretary of State but nothing in this section shall be construed as imposing any liability on the Exchequer of the United Kingdom

294 The powers conferred by the provisions of this Act for the time being in force on the Federal Legislature shall be exercisable by the Indian Legislature and accordingly references in those provisions to the Federal Legislature and Federal Laws shall be construed as references to the Indian Legislature and laws of the Indian Legislature

Legislature

Provided that nothing in this section shall empower the Indian Legislature to impose limits on the power of the Governor General in Council to borrow money

295 —(1) The provisions of the Government of India Act set out with amendments consequential on the provisions of this Act in the Ninth Schedule to this Act (being certain of the provisions of that Act re...

Continuance of prov...

A.D. 1935.
PART XIII. —cont

to the Governor-General, the Commander-in Chief, the Governor General's Executive Council and the Indian Legislature and provisions supplemental to those provisions) shall, subject to those amendments continue to have effect notwithstanding the repeal of that Act by this Act

Provided that nothing in the said provisions shall affect the provisions of the last but one preceding section

(2) In the said provisions, the expression "this Act" means the said provisions

(3) The substitution in the said provisions of references to the Secretary of State for references to the Secretary of State in Council shall not render invalid anything done thereunder by the Secretary of State in Council before the commencement of Part III of this Act

Provisions as to Federal Court and the Federal Public Service Commission

296 Notwithstanding that the Federation has not yet been established the Federal Court and the Federal Public Service Commission and the Federal Railway Authority shall come into existence and be known by those names and shall perform in relation to British India the like functions as they are by or under this Act to perform in relation to the Federation when established

Rights and liabilities of Governor General in Council to continue after establishment of Federation

297.—(1) Any rights acquired by, or liabilities incurred by or on behalf of, the Governor-General in Council or the Governor General between the commencement of Part III of this Act and the establishment of the Federation shall, after the establishment of the Federation be rights and liabilities of the Federation, and any legal proceedings pending at the establishment of the Federation by or against the Governor General in Council or the Governor-General shall, after the establishment of the Federation, be continued by or against the Federation

(2) The provisions of subsection (1) of this section shall apply in relation to rights and liabilities of the Secretary of State in Council which have, by virtue of the provisions of this Act, become rights or liabilities of the Governor General in Council as they apply in relation to the rights and liabilities therein mentioned

PART XIV

A D. 1935.

BURMA

CHAPTER I

Introductory

Government of Burma by the Crown.

298.—(1) All rights authority and jurisdiction heretofore belonging to His Majesty the King, Emperor of India, which appertain or are incidental to the government of his territories in Burma and all rights, authority and jurisdiction exercisable by treaty, grant usage, sufferance or otherwise in or in relation to any other territories in Burma are exercisable by His Majesty, except in so far as may be otherwise provided by or under this Act or as may be otherwise directed by His Majesty

(2) The said rights authority and jurisdiction shall include any rights authority or jurisdiction heretofore exercisable in relation to any territories in Burma by the Secretary of State the Secretary of State in Council, the Governor General of India, the Governor General of India in Council, the Governor of Burma or the Local Government of Burma, whether by delegation from His Majesty or otherwise

CHAPTER II

The Executive

The Governor

Appointment and functions of the Governor.

299.—(1) The Governor of Burma is appointed by His Majesty by a Commission under the Royal Sign Manual and has all such powers and duties as are conferred or imposed on him by or under this Act, and such other powers of His Majesty as His Majesty may be pleased to assign to him

(2) Any reference in this Act to the functions of the Governor shall be construed as not including a reference to powers exercisable by him by reason that they have been assigned to him by His Majesty under subsection (1) of this section

A D 1935
PART XIV,
—*cont*

(3) The provisions of the Tenth Schedule to this Act shall have effect with respect to the salary and allowances of the Governor and the provision to be made for enabling him to discharge conveniently and with dignity the duties of his office and with respect to persons appointed to act temporarily as Governor

Executive authority of Burma

300 —(1) Subject to the provisions of this Act the executive authority of Burma shall be exercised on behalf of His Majesty by the Governor, either directly or through officers subordinate to him, but nothing in this section shall prevent the Burma Legislature from conferring functions upon subordinate authorities or be deemed to transfer to the Governor any functions conferred on any court judge or officer or any local or other authority by any existing Indian or Burman law

(2) The executive authority of Burma extends—

(*a*) to the raising in Burma on behalf of His Majesty of naval, military and air forces, and to the governance of His Majesty's forces in Burma,

(*b*) to the exercise of such rights authority and jurisdiction as are exercisable by His Majesty by treaty, grant, usage, sufferance or otherwise in, and in relation to, any areas in Burma which are not part of the territories of His Majesty

Provided that—

(i) the said authority does not extend to the enlistment or enrolment in any forces raised in Burma of any person unless he is either a subject of His Majesty or a native of Burma or India or of territories adjacent to Burma or India, and

(ii) commissions in any such force shall be granted by His Majesty save in so far as he may be pleased to delegate that power by virtue of the provisions of subsection (1) of the first section of this chapter or otherwise

Administration

Council ministers

301.—(1) There shall be a council of ministers, not exceeding ten in number, to aid and advise the Governor

in the exercise of his functions, except in so far as he is by or under this Act required to exercise his functions or any of them in his discretion

Provided that nothing in this subsection shall be construed as preventing the Governor from exercising his individual judgment in any case where he is by or under this Act required so to do

(2) The Governor in his discretion may preside at meetings of the Council of ministers

(3) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Act required to act in his discretion or to exercise his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion, or ought or ought not to have exercised his individual judgment

Other provisions as to ministers

302 —(1) The Governor's ministers shall be chosen and summoned by the Governor, shall be sworn as members of the council, and shall hold office during his pleasure

(2) A minister who for any period of six consecutive months is not a member of the Legislature shall at the expiration of that period cease to be a minister

(3) The salaries of ministers shall be such as the Legisature may from time to time by Act determine, and, until the Legislature so determine, shall be determined by the Governor·

Provided that the salary of a minister shall not be varied during his term of office

(4) The question whether any, and if so what, advice was tendered by ministers to the Governor shall not be inquired into any court

(5) The functions of the Governor with respect to the choosing and summoning, and the dismissal of ministers and with respect to the determination of their salaries shall be e[illegible]ed by him in his discretion

A.D. 1935.

PART XIV —*cont.*

Discretionary functions of Governor.

303.—(1) The functions of the Governor with respect to defence, ecclesiastical affairs, the affairs of the areas specified in Part I of the Eleventh Schedule to this Act, and the control of monetary policy, currency and coinage, and with respect to external affairs, except the relations between Burma and any part of His Majesty's dominions, shall be exercised by him in his discretion, and his functions in or in relation to areas in Burma which are not part of the territories of His Majesty shall be similarly exercised.

(2) To assist him in the exercise of those functions the Governor may appoint counsellors, not exceeding three in number, whose salaries and conditions of service shall be such as may be prescribed by His Majesty in Council.

Special responsibilities of Governor

304.—(1) In the exercise of his functions the Governor shall have the following special responsibilities, that is to say—

(*a*) the prevention of any grave menace to the peace or tranquillity of Burma or any part thereof,

(*b*) the safeguarding of the financial stability and credit of the Government of Burma;

(*c*) the safeguarding of the legitimate interests of minorities;

(*d*) the securing to members of the public services of any right provided for them by or under this Act, and the safeguarding of their legitimate interests;

(*e*) the securing in the sphere of executive action of the purposes which the provisions of chapter [illegible] of this Part of this Act are designed to secure in relation to legislation;

(*f*) the prevention of action which would subject goods of United Kingdom or Indian origin imported into Burma to discriminatory or penal treatment;

(*g*) the securing of the peace and good government of the areas specified in Part II of the Eleventh Schedule to this Act;

(h) the securing that the due discharge of his functions with respect to matters with respect to which he is by or under this Act required to act in his discretion, or to exercise his individual judgment, is not prejudiced or impeded by any course of action taken with respect to any other matter

(2) If, and in so far as, any special responsibility of the Governor is involved, he shall, in the exercise of his functions, exercise his individual judgment as to the action to be taken

Provisions as to Instrument of Instructions

305.—(1) The Secretary of State shall lay before Parliament a draft of any Instructions (including any Instructions amending or revoking Instructions preiously issued) which it is proposed to recommend His Iajesty to issue to the Governor and no further proeedings shall be taken in relation thereto except in ursuance of an address presented to His Majesty by oth Houses of Parliament praying that the Instructions nay be issued

(2) The validity of anything done by the Governor hall not be called in question on the ground that it was lone otherwise than in accordance with any Instrument f Instructions issued to him

Superintendence of Secretary of State

306 In so far as the Governor is by or under this Act required to act in his discretion or to exercise his individual judgment, he shall, subject to the provisions of any Instrument of Instructions issued to him by His Majesty, be under the general control of and comply with such particular directions, if any, as may from time to time be given to him by the Secretary of State, but the validity of anything done by the Governor shall not be called in question on the ground that it was done otherwise than in accordance with the provisions of this section

Financial adviser to Governor

307.—(1) The Governor may appoint a person to be his financial adviser

(2) It shall be the duty of the Governor's financial adviser to assist by his advice the Governor in the discharge of his special responsibility for safeguarding the financial stability and credit of the Government

Burma and of his functions in respect of monetary policy currency and coinage, and also to give advice to the Government of Burma upon any matter relating to finance with respect to which he may be consulted

(3) The Governor's financial adviser shall hold office during the pleasure of the Governor and the salary and allowances of the financial adviser, and the numbers of his staff and their conditions of service, shall be such as the Governor may determine

(4) The powers of the Governor with respect to the appointment and dismissal of a financial adviser and with respect to the determination of his salary and allowances, and the numbers of his staff and their conditions of service shall be exercised by him in his discretion

Provided that if the Governor has determined to appoint a financial adviser, he shall, before making any appointment other than the first appointment, consult his ministers as to the person to be selected

Advocate General

308 —(1) The Governor shall appoint a person to be Advocate General for Burma

(2) It shall be the duty of the Advocate General to give advice to the Government of Burma upon such legal matters and to perform such other duties of a legal character as may be referred or assigned to him

(3) The Advocate General shall hold office during the pleasure of the Governor and shall receive such remuneration as the Governor may determine

(4) In exercising his powers with respect to the appointment and dismissal of the Advocate General and with respect to the determination of his remuneration, the Governor shall exercise his individual judgment

Provisions as to police rules

309 Where it is proposed that the Governor should by virtue of any powers vested in him make or amend or approve the making or amendment of any rules regulations or orders relating to any police force, whether civil or military, he shall exercise his individual judgment with respect to the proposal, unless it appears to him that the proposal does not relate to or affect the organisation or discipline of that force

A.D. 1935.

PART XIV. —*cont.*

Provisions as to crimes of violence intended to overthrow Government.

310.—(1) If it appears to the Governor that the peace or tranquillity of Burma is endangered by the operations of any persons committing, or conspiring, preparing or attempting to commit, crimes of violence which, in the opinion of the Governor, are intended to overthrow the government as by law established, the Governor may, if he thinks that the circumstances of the case require him so to do for the purpose of combating those operations, direct that his functions shall to such extent as may be specified in the direction be exercised by him in his discretion and, until otherwise provided by a subsequent direction of the Governor, those functions shall to that extent be exercised by him accordingly

(2) The functions imposed on the Governor by this section shall be exercised by him in his discretion

(3) Nothing in this section affects the special responsibility of the Governor for the prevention of any grave menace to the peace or tranquillity of Burma or any part thereof

Disclosure of sources of information.

311. The Governor in his discretion shall make rules for securing that no records or information relating to the sources from which information has been or may be obtained with respect to the operations of persons committing, or conspiring, preparing or attempting to commit, such crimes as are mentioned in the last preceding section, shall be disclosed or given by any officer of any police force in Burma to any member of that force except by direction of the Inspector-General of Police, or to any other person except by direction of the Governor in his discretion.

Conduct of business of Government.

312.—(1) All executive action of the Government of Burma shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by him in his discretion after consultation with his ministers, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that the making thereof was not duly authorised.

A.D. 1935.

PART XIV —*cont*

(3) The Governor shall make rules for the more convenient transaction of the business of the Government and for the allocation among ministers of the said business in so far as it is not business with respect to which the Governor is by or under this Act required to act in his discretion

(4) The rules shall include provisions requiring ministers and secretaries to Government to transmit to the Governor all such information with respect to the busines of the Government as may be specified in the rule or as the Governor may otherwise require to b so transmitted and in particular requiring a ministe to bring to the notice of the Governor, and th appropriate secretary to bring to the notice of th minister concerned and of the Governor, any matte under consideration by him which involves or appea to him likely to involve any special responsibility of th Governor

(5) In the discharge of his functions under th section the Governor shall act in his discretion aft consultation with his ministers

CHAPTER III

THE LEGISLATURE

General

Constitution of the Legislature

313 —(1) There shall be for Burma a Legislat which shall consist of His Majesty, represented by Governor and two Chambers to be known respectiv as the Senate and the House of Representatives

(2) The Senate shall consist of thirty six memb and the House of Representatives shall consist of hundred and thirty members

(3) The said members shall be chosen in accorda with the provisions in that behalf contained in Twelfth Schedule to this Act

Sessions of the Legislature prorogation and dissolution

314 —(1) The Chambers of the Legislature shall summoned to meet once at least in every year twelve months shall not intervene between their sitting in one session and the date appointed for t first sitting in the next session

(2) Subject to the provisions of this section, the Governor may in his discretion from time to time—

(*a*) summon the Chambers or either Chamber to meet at such time and place as he thinks fit,

(*b*) prorogue the Chambers,

(*c*) dissolve either Chamber or both Chambers simultaneously

(3) The Chambers shall be summoned to meet for their first session on a day not later than such day as may be specified in that behalf by His Majesty in Council

(4) Every Senate, unless sooner dissolved, shall continue for seven years from the date appointed for the first meeting thereof and no longer, and every House of Representatives, unless sooner dissolved shall continue for five years from the date appointed for the first meeting thereof and no longer and the expiration of the said period of seven years, or the said period of five years shall operate as a dissolution of the Senate or the House of Representatives, as the case may be

Right of Governor to address and send messages to Chambers

315.—(1) The Governor may in his discretion address either Chamber of the Legislature or both Chambers assembled together and for that purpose require the attendance of members

(2) The Governor may in his discretion send messages to either Chamber of the Legislature and the Chamber to whom any message is so sent shall with all convenient despatch consider any matter which they are required by the message to take into consideration

Rights of ministers and counsellors as respects Chambers

316 Every minister and every counsellor shall have the right to speak in, and otherwise to take part in the proceedings of either Chamber any joint sitting of the Chambers and any committee of the Legislature of which he may be named a member but shall not by virtue of this section be entitled to vote

Election of officers of ...

317—(1) The Senate shall as soon as may be choose two members of the Senate to be respectively President and Deputy-President thereof and, so often as the office of President or Deputy President becomes

A.D. 1935.
PART XIV
—*cont.*

vacant the Senate shall choose another member to be President or Deputy-President, as the case may be.

(2) A member holding office as President or Deputy President of the Senate shall vacate his office if he ceases to be member of the Senate, may at any time resign his office by writing under his hand addressed to the Governor, and may be removed from his office by a resolution of the Senate passed by a majority of all the then members of the Senate; but no resolution for the purpose of this subsection shall be moved unless at least fourteen days notice has been given of the intention to move the resolution:

Provided that, whenever the Senate is dissolved, the President shall not vacate his office until immediately before the first meeting of the Senate after the dissolution.

(3) While the office of President is vacant the duties of the office shall be performed by the Deputy President or, if the office of Deputy President is also vacant, by such member of the Senate as the Governor may appoint for the purpose, and during any absence of the President from any sitting of the Senate the Deputy President or, if he is also absent, such person as may be determined by the rules of procedure of the Senate, or, if no such person is present, such other person as may be determined by the Senate, shall act as President.

(4) There shall be paid to the President and the Deputy President of the Senate such salaries as may be respectively fixed by Act of the Legislature, and, until provision in that behalf is so made, such salaries as the Governor may determine.

(5) The foregoing provisions of this section shall apply in relation to the House of Representatives as they apply in relation to the Senate with the substitution of the titles "Speaker" and "Deputy Speaker" for the titles "President" and "Deputy President" respectively, and with the substitution of references to the House of Representatives for references to the Senate.

Voting in Chambers, power of Chambers to act notwithstanding

318.—(1) Save as provided in the last preceding *section* all questions at any sitting or joint sitting of the Chambers shall be determined by a majority of votes of the members present and voting, other than the President or Speaker or person acting as such.

The President or Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

Vacancies and quorum.

(2) A Chamber of the Legislature shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislature shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(3) If at any time during a meeting of the Senate less than twelve members are present, or if at any time during a meeting of the House of Representatives less than one-sixth of the total number of members thereof are present, it shall be the duty of the President or Speaker or person acting as such either to adjourn the Chamber, or to suspend the meeting until at least twelve members, or, as the case may be, at least one sixth of the members, are present.

Provisions as to members of Legislature.

Oath or affirmation of members.

319. Every member of either Chamber shall, before taking his seat, make and subscribe before the Governor or some person appointed by him an oath according to the form set out in the Thirteenth Schedule to this Act.

Vacation of seats.

320.—(1) No person shall be a member of both Chambers and rules made by the Governor shall provide for the vacation by a person who is chosen a member of both Chambers of his seat in one Chamber or the other.

(2) If a member of either Chamber—

(*a*) ceases to possess any of the qualifications which he was under the provisions of the Twelfth Schedule to this Act required to possess when he was chosen a member; or

(*b*) becomes subject to any of the disqualifications mentioned in subsection (1) of the next succeeding section; or

(*c*) by writing under his hand addressed to the Governor resigns his seat,

his seat shall thereupon become vacant.

A D 1935

PART XIV —*cont*

(3) If for sixty days a member of either Chamber is without permission of the Chamber absent from all meetings thereof, the Chamber may declare his seat vacant

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Chamber is prorogued or is adjourned for more than four consecutive days

Disqualifications for membership

321.—(1) A person shall be disqualified for being chosen as, and for being a member of either Chamber— 10

(*a*) if he holds any office of profit under the Crown in Burma other than an office declared by Act of the Legislature not to disqualify its holder,

(*b*) if he is of unsound mind and stands so declared by a competent court, 15

(*c*) if he is an undischarged insolvent,

(*d*) if whether before or after the commencement of this Part of this Act, he has been convicted or has in proceedings for questioning the validity or regularity of an election, been found to have been guilty of an offence relating to elections which has been declared by Order in Council or by an Act of the Legislature, to be an offence conviction whereof is a disqualification for membership of the Legislature, unless such period has elapsed as may be specified in that behalf in the provisions of that Order or Act, 20 25

(*e*) if he has whether before or after the commencement of this Part of this Act, been convicted in Burma or has before the commencement of this Part of this Act been convicted in British India of any other offence, and has in either case been sentenced to transportation or to imprisonment for a period exceeding twelve months unless a period of five years, or such less period as the Governor may in his discretion allow in any particular case, has elapsed since his release 30 35

(2) A person shall not be capable of being chosen a member of either Chamber while he is serving a 40

sentence of transportation or of imprisonment for a criminal offence

(3) Where a person who, by virtue of a conviction or a conviction and a sentence becomes disqualified by virtue of paragraph (*d*) or paragraph (*e*) of subsection (1) of this section is at the date of the disqualification a member of a Chamber his seat shall notwithstanding anything in this or the last preceding section, not become vacant by reason of the disqualification until three months have elapsed from the date thereof or, if within those three months an appeal or petition for revision is brought in respect of the conviction or the sentence until that appeal or petition is disposed of but, during any period during which his membership is preserved by this subsection, he shall not sit or vote

(4) For the purposes of this section a person shall not be deemed to hold an office of profit under the Crown in Burma by reason only that he is a minister

Penalty for sitting and voting when not qualified or disqualified

322. If a person sits or votes as a member of either Chamber when he is not qualified or is disqualified for membership thereof or when he is prohibited from so doing by the provisions of subsection (3) of the last preceding section he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to the Government of Burma

Privileges &c of members

323 —(1) Subject to the provisions of this Part of this Act and to the rules and standing orders regulating the procedure of the Legislature there shall be freedom of speech in the Legislature and no member of the Legislature shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Legislature or any committee thereof and no person shall be so liable in respect of the publication by or under the authority of a Chamber of the Legislature of any report, paper, votes or proceedings

(2) In other respects the privileges of members of the Chambers of the Legislature shall be such as may from time to time be defined by Act of the Legislature and until so defined shall be such as were immediately before the commencement of this *Part of this Act* enjoyed by members of the Legislative Council of Burma

A D 1935

Part XIV, —*cont*

(3) Notwithstanding anything in the foregoing pro sions of this section, nothing in this Part of this Act shall construed as conferring or empowering the Legislatu to confer, on either Chamber thereof or on both Chamb sitting together or on any committee or officer of t Legislature, the status of a court, or any power to com the attendance of any person for any purpose befc either Chamber or before both Chambers sitting togetl or before any committee or officer of the Legislature any punitive or disciplinary powers other than the pow to remove or exclude persons infringing the rules standing orders or otherwise behaving in a disorder manner

For the purposes of this subsection an enactment the Legislature providing for the punishment of perso who refuse to attend as aforesaid shall be deemed to be enactment conferring power to compel the attendan of persons

(4) The provisions of subsections (1) and (2) this section shall apply in relation to persons who virtue of this Act have the right to speak in and othe wise take part in the proceedings of a Chamber as th apply in relation to members of the Legislature

Salaries and allowances of members

324. Members of either Chamber shall be entitle to receive such salaries and allowances as may from tim to time be determined by Act of the Legislature an until provision in that respect is so made, allowances such rates and upon such conditions as were immediatel before the commencement of this Part of this Act applic able in the case of members of the Legislative Council Burma

Procedure Generally

Rules of procedure

325.—(1) Each Chamber of the Legislature ma make rules for regulating subject to the provisions this Part of this Act, their procedure and the conduct their business

Provided that as regards each Chamber the Governo shall in his discretion, after consultation with the Presi dent or the Speaker, as the case may be, make rules—

(*a*) for regulating the procedure of and the conduct o business in, the Chamber in relation to an

matter which affects the discharge of his functions in so far as he is by or under this Act required to act in his discretion or to exercise his individual judgment;

(b) for securing the timely completion of financial business;

(c) for prohibiting, save with the consent of the Governor in his discretion—

(i) the discussion of, or the asking of questions on, any matter affecting relations between His Majesty or the Governor and any foreign State or Prince, or

(ii) the discussion, except in relation to estimates of expenditure, of, or the asking of questions on, any matters arising out of or affecting the administration of any of the areas specified in the Eleventh Schedule to this Act,

and, if and in so far as any rule so made by the Governor is inconsistent with any rule made by a Chamber, the rule made by the Governor shall prevail

(2) The Governor, after consultation with the President of the Senate and the Speaker of the House of Representatives, may make rules as to the procedure with respect to joint sittings of, and communications between, the two Chambers

The said rules shall make such provision for the purposes specified in the proviso to the preceding subsection as the Governor in his discretion may think fit

(3) Until rules are made under this section, the rules of procedure and standing orders in force immediately before the commencement of this Part of this Act with respect to the Legislative Council of Burma shall have effect in relation to the Legislature, subject to such modifications and adaptations as may be made therein by the Governor in his discretion

(4) At a joint sitting of the two Chambers the President of the Senate, or in his absence such person as may be determined by rules of procedure made under this section, shall preside

A D 1935.

Part XIV, —*cont*

English to be used in Legislature

326 All proceedings in the Legislature shall be conducted in the English language

Provided that the rules of procedure of the Chambers and the rules with respect to joint sittings shall provide for enabling persons unacquainted or not sufficiently acquainted with the English language to use another language

Restrictions on discussion

327.—(1) No discussion shall take place in the Legislature with respect to the conduct of any judge of the High Court in the performance of his judicial functions

(2) If the Governor in his discretion certifies that the discussion of a Bill introduced or proposed to be introduced in the Legislature or of any specified clause of a Bill or of any amendment moved or proposed to be moved to a Bill would affect the discharge of his special responsibility for the prevention of any grave menace to the peace or tranquillity of Burma or any part thereof he may in his discretion direct that no proceedings or no further proceedings shall be taken in relation to the Bill clause or amendment and effect shall be given to the direction.

Courts not to inquire into proceedings of the Legislature

328 —(1) The validity of any proceedings in the Legislature shall not be called in question on the ground of any alleged irregularity of procedure

(2) No officer or other member of the Legislature in whom powers are vested by or under this Part of this Act for regulating procedure or the conduct of business or for maintaining order in the Legislature shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers

CHAPTER IV.

Legislation

Powers of the Legislature as to Legislation

Extent of laws of Legislature

329. Subject to the provisions of this Part of this Act—

(1) The Legislature may make laws for the territories in Burma belonging to His Majesty or any part thereof

(2) Without prejudice to the provisions of the preceding paragraph, an Act of the Legislature shall, unless it is otherwise expressly provided therein extend—

(*a*) to all subjects of His Majesty within any part of Burma, and

(*b*) in the case of a law for the regulation or discipline of any naval, military or air force raised in Burma to all members of and all persons attached to, employed with or following that force, wherever they may be, in so far as they are not subject to the Army Act the Air Force Act, the Naval Discipline Act or any similar law enacted by a competent authority in India,

and may extend to any Burman subjects of His Majesty, wherever they may be

Savings

330 Nothing in this Part of this Act shall be taken—

(*a*) to affect the power of Parliament to legislate for Burma or

(*b*) to empower the Legislature—

(i) to make any law affecting the Sovereign, or the Royal Family or the sovereignty, dominion or suzerainty of the Crown in any part of Burma or the law of British nationality, or the Army Act the Air Force Act the Naval Discipline Act or any similar law enacted by a competent authority in India or the law of Prize or Prize Courts or

(ii) except in so far as expressly permitted by this Part of this Act, to make any law amending any provisions of this Part of this Act or any Order in Council made there under or any rules made under this Part of this Act by the Secretary of State or by the Governor in his discretion or in the exercise of his individual judgment

Legislative procedure

Introduction of Bills &c

331—(*1*) *Subject to the* provisions of chapter VI of this Part of this Act with respect to financial Bills, a Bill may originate in either Chamber of the Legislature

A D 1935

PART XIV —*cont*

(2) A Bill pending in the Legislature shall not lapse by reason of the prorogation of the Chambers thereof

(3) A Bill pending in one Chamber which has not been passed by the other Chamber shall not lapse on a dissolution of that other Chamber, but save as aforesaid all Bills shall lapse on a dissolution of either Chamber

Previous sanction of Governor required for certain legislative proposals

332 —(1) Unless the Governor in his discretion thinks fit to give his previous sanction there shall not be introduced into or moved in either Chamber of the Legislature, any Bill or any amendment which—

(*a*) repeals amends or is repugnant to any provisions of any Act of Parliament extending to Burma or

(*b*) repeals amends or is repugnant to any Governor's Act or any ordinance promulgated in his discretion by the Governor, or

(*c*) affects matters reserved to the discretion of the Governor in relation to defence external affairs areas in Burma which are not part of the territories of His Majesty, areas specified in Part I of the Eleventh Schedule to this Act, ecclesiastical affairs, monetary policy currency or coinage, or

(*d*) repeals amends or affects any Act relating to any police force, or

(*e*) affects the procedure for criminal proceedings in which European British subjects are concerned, or

(*f*) affects immigration into Burma

(2) Nothing in this section affects the operation of any other provision in this Part of this Act which requires the previous sanction of the Governor to the introduction of any Bill or the moving of any amendment

Passing of Bills

333 —(1) Subject to the provisions of this section, a Bill shall not be deemed to have been passed by the Chambers of the Legislature unless it has been agreed to by both Chambers either without amendments or with such amendments only as are agreed to by both Chambers

(2) If a Bill which has been passed by one Chamber and transmitted to the other is not before the expiration

f twelve months from its reception by that other Chamber presented to the Governor for his assent the Governor may summon the Chambers to meet in a joint sitting for the purpose of deliberating and voting on the Bill

Provided that if it appears to the Governor that the Bill relates to finance or to any matter which affects the discharge of his functions in so far as he is by or under this Act required to act in his discretion or to exercise his individual judgment he may in his discretion summon the Chambers to meet in a joint sitting for the purpose aforesaid notwithstanding that the said period of twelve months has not elapsed

(3) If at a joint sitting of the two Chambers summoned in accordance with the provisions of this section the Bill with such amendments if any as are agreed to in joint sitting is passed by a majority of the total number of members of both Chambers present and voting it shall be deemed for the purposes of this Act to have been passed by both Chambers

Provided that at a joint sitting—

(a) unless the Bill having been passed by one Chamber has been passed by the other Chamber with amendments and returned to the Chamber in which it originated, no amendment shall be proposed to the Bill other than such amendments if any, as are made necessary by the delay in the passage of the Bill,

(b) if the Bill has been so passed and returned, only such amendments as aforesaid shall be proposed to the Bill and such other amendments as are relevant to the matters with respect to which the Chambers have not agreed,

and the decision of the person presiding as to the amendments which are admissible under this subsection shall be final

334 —(1) When a Bill has been passed by the Chambers it shall be presented to the Governor and the Governor shall in his discretion declare either that

A D 1935

Part XIV. —*cont*

assents in His Majesty's name to the Bill, or that he withholds assent therefrom or that he reserves the Bill for the signification of His Majesty's pleasure

Bills by His Majesty

Provided that the Governor may in his discretion return the Bill to the Chambers with a message requesting that they will reconsider the Bill or any specified provisions thereof and in particular will consider the desirability of introducing any such amendments as he may recommend in his message, and the Chambers shall reconsider the Bill accordingly

(2) A Bill reserved for the signification of His Majesty's pleasure shall not become an Act of the Legislature unless and until within twelve months from the day on which it was presented to the Governor, the Governor makes known by public notification that His Majesty has assented thereto

(3) Any Act assented to by the Governor may be disallowed by His Majesty within twelve months from the date of the Governor's assent, and where any Act is so disallowed the Governor shall forthwith make the disallowance known by public notification and as from the date of the notification the Act shall become void

Requirements as to sanctions and recommendations to be regarded as matters of procedure only

335 —(1) Where under any provision of this Part of this Act the previous sanction or recommendation of the Governor is required to the introduction or passing of a Bill or the moving of an amendment, the giving of the sanction or recommendation shall not be construed as precluding him from exercising subsequently in regard to the Bill in question any powers conferred upon him by this Part of this Act with respect to the withholding of assent to or the reservation of Bills

(2) No Act of the Legislature and no provision in any such Act shall be invalid by reason only that some previous sanction or recommendation was not given

Legislative powers of Governor

Legislation for areas mentioned in Eleventh Schedule

336 —(1) Notwithstanding anything in this chapter no Act of the Legislature shall apply to any area specified in the Eleventh Schedule to this Act unless the Governor by public notification so directs, and the Governor in giving such a direction with respect to any Act may

direct that the Act shall, in its application to the area or to any specified part thereof, have effect subject to such exceptions or modifications as he thinks fit

(2) The Governor may make regulations for the peace 5 and good government of any such area, and any regulations so made may repeal or amend any Act, whether passed before or after the commencement of this Part of this Act, which is for the time being applicable to the area

(3) The provisions of this Part of this Act with respect to the power of His Majesty to disallow Acts shall apply in relation to any such regulations as they apply in relation to Acts of the Legislature

Power of Governor to promulgate ordinances during recess of Legislature.

337.—(1) If at any time when the Legislature is not in session the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action he may promulgate such ordinances as the circumstances appear to him to require

Provided that the Governor—

(*a*) shall exercise his individual judgment as respects the promulgation of any ordinance under this section if a Bill containing the same provisions would under this Act have required his previous sanction to the introduction thereof into the Legislature and

(*b*) shall not without instructions from His Majesty promulgate any such ordinance if he would have deemed it necessary to reserve a Bill containing the same provisions for the signification of His Majesty's pleasure

(2) An ordinance promulgated under this section shall have the same force and effect as an Act of the Legislature but every such ordinance—

(*a*) shall be laid before the Legislature and shall cease to operate at the expiration of six weeks from the reassembly of the Legislature or, if a resolution disapproving it is passed by the House of Representatives and agreed to by the Senate, upon the resolution being agreed to by the Senate,

A D 1935
PART XIV —*cont*

(*b*) shall be subject to the provisions of this Part of this Act relating to the power of His Majesty to disallow Acts as if it were an Act of the Legislature and

(*c*) may be withdrawn at any time by the Governor 5

(3) If and so far as an ordinance under this section makes any provision which would not be valid if enacted in an Act of the Legislature it shall be void

Power of Governor to promulgate ordinances at any time with respect to certain subjects

338.—(1) If at any time the Governor is satisfied that circumstances exist which render it necessary for 10 him to take immediate action for the purpose of enabling him satisfactorily to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment he may promulgate such ordinances as in his opinion the 15 circumstances of the case require

(2) An ordinance promulgated under this section shall continue in operation for such period not exceeding six months as may be specified therein but may by a subsequent ordinance be extended for a further period 20 not exceeding six months

(3) An ordinance promulgated under this section shall have the same force and effect as an Act of the Legislature but every such ordinance—

(*a*) shall be subject to the provisions of this Act 25 relating to the powers of His Majesty to disallow Acts as if it were an Act of the Legislature

(*b*) may be withdrawn at any time by the Governor and

(*c*) if it is an ordinance extending a previous ordinance for a further period shall be communicated 30 forthwith to the Secretary of State and shall be laid by him before each House of Parliament

(4) If and so far as an ordinance under this section makes any provision which would not be valid if enacted 35 in an Act of the Legislature it shall be void

(5) The functions of the Governor under this section shall be exercised by him in his discretion

A.D. 1935.
Part XIV.
—*cont.*

Power of Governor to enact Acts.

339.—(1) If at any time it appears to the Governor that for the purpose of enabling him satisfactorily to discharge his functions in so far as he is by or under this Act required in the exercise thereof to act in his discretion or to exercise his individual judgment it is essential that provision should be made by legislation, he may by message to both Chambers of the Legislature explain the circumstances which in his opinion render legislation essential and shall attach to any such message a draft of the Bill which he considers necessary.

(2) At any time after the expiration of one month the Governor may enact, as a Governor's Act, the Bill proposed by him to the Chambers either in the form of the draft communicated to them, or with such amendments as he deems necessary, but before so doing he shall consider any address which may have been presented to him within the said period by either Chamber with reference to the Bill or to amendments suggested to be made therein

(3) A Governor's Act shall have the same force and effect, and shall be subject to disallowance in the same manner, as an Act of the Legislature, and if and so far as it makes any provision which would not be valid if enacted in an Act of the Legislature it shall be void

(4) Every Governor's Act shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament.

(5) The functions of the Governor under this section shall be exercised by him in his discretion.

CHAPTER V

Restrictions on Discrimination &c

Certain Burman laws not to bind British subjects domiciled in the United Kingdom and

340.—(1) Subject to the provisions of this chapter, a British subject domiciled in the United Kingdom shall be exempt from the operation of so much of any law of Burma as imposes any restriction on the right of entry into Burma:

Provided that no person shall by virtue of this subsection be entitled to claim exemption from any such restriction if and so long as Burman subjects of His

Majesty domiciled in Burma are by or under the law of the United Kingdom subject in the United Kingdom to a similar restriction

For the purposes of this subsection a provision whether of the law of Burma or of the law of the United Kingdom empowering any public authority to impose quarantine regulations or to exclude or deport individuals wherever domiciled who appear to that authority to be undesirable persons shall be deemed not to be a restriction on the right of entry

(2) Subject to the provisions of this chapter a British subject domiciled in the United Kingdom shall be exempt from the operation of so much of any law of Burma as imposes by reference to place of birth race descent language religion domicile residence or duration of residence any liability restriction or condition in regard to travel residence the holding of property or public office or the carrying on of any occupation trade business or profession

Provided that no person shall by virtue of this subsection be entitled to claim exemption from any such restriction condition or liability as aforesaid if and so long as Burman subjects of His Majesty domiciled in Burma are by or under the law of the United Kingdom subject in the United Kingdom to a similar liability restriction or condition imposed in regard to the same subject matter by reference to the same principle of distinction

(3) The provisions of subsection (2) of this section shall apply in relation to Indian subjects of His Majesty domiciled in British India as they apply in relation to British subjects domiciled in the United Kingdom with the substitution for references to the United Kingdom of references to British India

Provided that nothing in this subsection shall affect any restriction lawfully imposed on the right of entry into Burma of such Indian subjects of His Majesty as aforesaid or any restriction lawfully imposed as a condition of allowing any such Indian subject to enter Burma

(4) Notwithstanding anything in this section if the Governor by public notification certifies that for the

prevention of any grave menace to the peace or tranquillity of any part of Burma, or for the purposes of combating crimes of violence intended to overthrow the Government, it is expedient that the operation of the provisions of this section should be wholly or partially suspended in relation to any law, then while the notification is in force the operation of those provisions shall be suspended accordingly.

A.D. 1935 PART XIV —cont

The functions of the Governor under this subsection shall be exercised by him in his discretion

Provisions as to taxation

341 No law of the Legislature which imposes any liability to taxation shall be such as to discriminate against British subjects domiciled in the United Kingdom or Indian subjects of His Majesty domiciled in British India and any law passed or made in contravention of this section shall, to the extent of the contravention be invalid

Companies

342 —(1) Subject to the following provisions of this chapter, a company incorporated, whether before or after the passing of this Act by or under the laws of the United Kingdom, and the members of the governing body of any such company and the shareholders, officers, agents and servants thereof, shall be deemed to comply with so much of any law of Burma as imposes in regard to companies trading in Burma requirements or conditions relating to or connected with—

(a) the place of incorporation of a company, or

(b) the place of birth, race, descent, language, religion, domicile, residence or duration of residence of members of the governing body of a company, or of its shareholders, officers, agents or servants

Provided that no company or person shall by virtue of this subsection be deemed to comply with any such requirement or condition as aforesaid if and so long as a like requirement or condition is imposed by or under the law of the United Kingdom in regard to companies incorporated by or under the laws of Burma and trading in the United Kingdom

(2) Subject to the following provisions of this chapter, a British subject domiciled in the United Kingdom shall be deemed to comply with so much

A.D. 1935
PART XIV
—*cont.*

of any law of Burma as imposes in regard to companie incorporated, whether before or after the passing of th Act, by or under the laws of Burma, any requiremen or conditions relating to, or connected with, the place birth, race, descent, language, religion, domicile, residen or duration of residence of members of the governir body of a company or of its shareholders, officers, agen or servants

Provided that no person shall by virtue of th section be deemed to comply with any such requireme or condition as aforesaid if and so long as a like requir ment or condition is imposed by or under the la of the United Kingdom in regard to companies inco porated by or under the laws of the United Kingdom Burman subjects of His Majesty domiciled in Burma

(3) The foregoing provisions of this section sha apply in relation to Indian subjects of His Majes domiciled in British India and companies incorporated or under the laws of British India as they apply in relati to British subjects domiciled in the United Kingdom a companies incorporated by or under the laws of th United Kingdom, with the substitution for references the United Kingdom of references to British India.

Reciprocal treatment of ships

343.—(1) No ship registered in the United Kingdc shall be subjected directly or indirectly by or under a law of Burma to any treatment affecting either the sh herself, or her master, officers, crew, passengers or car which is discriminatory in favour of ships registered Burma except in so far as ships registered in Burma are the time being subjected by or under any law of the Unit Kingdom to treatment of a like character which is si larly discriminatory in favour of ships registered in United Kingdom

(2) The provisions of this section shall apply relation to ships registered in British India as they ap in relation to ships registered in the United Kingdom w the substitution for references to the United Kingdom references to British India

(3) The provisions of this section are in addition and not in derogation of the provisions of any of t preceding sections of this chapter.

Subsidies for the encouragement of trade or industry

344.—(1) Notwithstanding anything in any Act of the Legislature, companies incorporated, whether before or after the passing of this Act, by or under the laws of the United Kingdom and carrying on business in Burma, shall be eligible for any grant, bounty or subsidy payable out of public moneys in Burma for the encouragement of any trade or industry to the same extent as companies incorporated by or under the laws of Burma are eligible therefor

Provided that this subsection shall not apply in relation to any grant bounty or subsidy payable out of public moneys for the encouragement of any trade or industry, if and so long as under the law of the United Kingdom for the time being in force companies incorporated by or under the laws of Burma and carrying on business in the United Kingdom are not equally eligible with companies incorporated by or under the laws of the United Kingdom for the benefit of any grant, bounty or subsidy payable out of public moneys in the United Kingdom for the encouragement of the same trade or industry

(2) Notwithstanding anything in this chapter, an Act of the Legislature may require in the case of a company which at the date of the passing of that Act was not engaged in Burma in that branch of trade or industry which it is the purpose of the Act to encourage that the company shall not be eligible for any grant bounty or subsidy under the Act unless—

(a) the company is incorporated by or under the laws of Burma, and

(b) such proportion not exceeding one half of the members of its governing body as the Act may prescribe are Burman subjects of His Majesty, and

(c) the company gives such reasonable facilities for the training of Burman subjects of His Majesty as may be so prescribed

(3) For the purposes of this section a company incorporated by or under the laws of the United Kingdom shall be deemed to be carrying on business in Burma if it owns ships which habitually trade to and from ports in Burma

(4) The foregoing provisions of this section shall apply in relation to companies incorporated by or under the laws of British India as they apply in relation to companies incorporated by or under the laws of the United Kingdom with the substitution for references to the United Kingdom of references to British India.

Power to secure reciprocal treatment by convention.

345.—(1) If a convention is made between His Majesty's Government in the United Kingdom and the Government of Burma, whereby similarity of treatment is assured in the United Kingdom to Burman subjects of His Majesty domiciled in Burma and to companies incorporated by or under the laws of Burma, and in Burma to subjects of His Majesty domiciled in the United Kingdom and to companies incorporated by or under the laws of the United Kingdom respectively, in respect of all the matters or any of the matters, with regard to which provision is made in the preceding sections of this chapter, His Majesty may, if he is satisfied that all necessary legislation has been enacted both in the United Kingdom and in Burma for the purpose of giving effect to the convention, by Order in Council declare that the purposes of those sections are to such extent as may be specified in the Order sufficiently fulfilled by that convention and legislation, and while any such Order is in force the operation of those sections shall to that extent be suspended.

(2) As from the establishment of the Federation of India the provisions of subsection (1) of this section shall apply in relation to Indian subjects of His Majesty domiciled in British India and to companies incorporated by or under the laws of British India as they apply in relation to subjects of His Majesty domiciled in the United Kingdom and companies incorporated by or under the laws of the United Kingdom, with the substitution for references to His Majesty's Government in the United Kingdom, and the United Kingdom of references to the Federal Government and British India.

(3) An Order in Council under this section shall cease to have effect if and when the convention to which it relates expires or is terminated by either party thereto.

Professional qualifications in general

346. No law of Burma which prescribes or empowers any authority to prescribe the qualifications to be held by persons—

(*a*) practising any profession in Burma; or

(*b*) holding any office or performing any functions in Burma,

hall have effect so as to preclude any person who immediately before the passing of this Act was lawfully practising any profession in Burma from continuing o practise that profession, or from being appointed o or holding any office or performing any functions, if at he said date he was qualified to be appointed to, or to old or perform, that office or those functions, or offices r functions of a comparable or analogous nature.

Medical qualifications

347.—(1) So long as the condition set out in ubsection (3) of this section continues to be fulfilled, a ritish subject domiciled in the United Kingdom or urma who, by virtue of a medical diploma granted o him in the United Kingdom, is, or is entitled to be, egistered in the United Kingdom as a qualified medical ractitioner shall not by or under any law of Burma, e excluded from practising medicine, surgery or idwifery in Burma, or from being registered as ualified so to do, on any ground other than the ground hat the diploma held by him does not furnish a sufficient uarantee of his possession of the requisite knowledge nd skill for the practice of medicine, surgery and idwifery, and he shall not be so excluded on that ground nless the law of Burma makes provision for securing—

(*a*) that no proposal for excluding the holders of any particular diploma from practice or registration shall become operative until the expiration of twelve months after notice thereof has been given to the Governor and to the University or other body granting that diploma, and

(*b*) that such a proposal shall not become operative or, as the case may be, shall cease to operate, if the Privy Council on an application made to them under the next succeeding subsection determine that the diploma in question ought to be recognised as furnishing such a sufficient guarantee as aforesaid

A.D 1935.
PART XIV
—*cont*

(2) If any University or other body in the United Kingdom which grants a medical diploma, or any British subject who holds such a diploma, is aggrieved by the proposal to exclude holders of that diploma from practice or registration in Burma, that body or person may make an application to the Privy Council, and the Privy Council, after giving to such authorities and persons both in Burma and in the United Kingdom as they think fit an opportunity of tendering evidence or submitting representations in writing, shall determine whether the diploma in question does or does not furnish a sufficient guarantee of the possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, and shall notify their determination to the Governor who shall communicate it to such authorities, and cause it to be published in such manner, as he thinks fit

(3) The condition referred to in subsection (1) of this section is that Burman subjects of His Majesty holding a medical diploma granted after examination in Burma shall not be excluded from practising medicine, surgery or midwifery in the United Kingdom or from being registered therein as a qualified medical practitioner, except on the ground that that diploma does not furnish a sufficient guarantee of the possession of the requisite knowledge and skill for the practice of medicine, surgery and midwifery, and shall only be excluded on that ground so long as the law of the United Kingdom makes provision for enabling any question as to the sufficiency of that diploma to be referred to and decided by the Privy Council

(4) A medical practitioner entitled to practise or be registered in Burma by virtue of a diploma granted in the United Kingdom, or in the United Kingdom by virtue of a diploma granted in Burma, shall not in the practice of his profession be subjected to any restriction or condition to which persons entitled to practise by virtue of diplomas granted in the other country are not subject

(5) The foregoing provisions of this section shall, subject to the modifications hereinafter mentioned, apply in relation to Indian subjects of His Majesty who by virtue of medical diplomas granted to them in India or the United Kingdom, are, or are entitled to be,

registered in the United Kingdom as qualified medical practitioners as they apply in relation to British subjects domiciled in the United Kingdom who, by virtue of medical diplomas granted in the United Kingdom, are or are entitled to be, registered in the United Kingdom as qualified medical practitioners

The said modifications are as follows, that is to say,—

(a) subsection (3) shall not apply and the reference in subsection (1) to the condition set out therein shall be deemed to be omitted,

(b) any reference in subsection (2) or subsection (4) to the United Kingdom shall be construed as a reference to India

(6) Nothing in this section shall be construed as affecting any power of any recognised authority in the United Kingdom or Burma to suspend or debar any person from practice on the ground of misconduct, or to remove any person from a register on that ground

(7) In this section the expression "diploma" includes any certificate degree fellowship, or other document or status granted to persons passing examinations

Medical officers of His Majesty's forces.

348 A person who holds a commission from His Majesty as a medical officer in any branch of His Majesty's forces and is on the active list shall by virtue of that commission be deemed to be qualified to practise medicine surgery and midwifery in Burma and be entitled to be registered in Burma as so qualified

Savings.

349 —(1) Nothing in the preceding sections of this chapter shall affect the operation of any law passed or made before this Act, other than a law relating to medical practitioners

(2) In this chapter, "law" includes any ordinance, order bye-law rule or regulation having by virtue of any Act of Parliament or of any existing Indian or Burman law or of any law of the Federal or any Provincial Legislature or of the Legislature of Burma, the force of law

(3) In this chapter—

(a) references to companies incorporated by or under the laws of Burma include references to

A.D. 1935.

PART XIV.
—*cont.*

companies incorporated by or under the laws of British India and registered in Burma, but do not include references to companies so incorporated which were registered elsewhere;

(*b*) references to companies incorporated by or under the laws of British India do not include references to companies registered in Burma.

CHAPTER VI.

FINANCE.

General.

Meaning of revenues of Burma

350. Subject to the provisions of this chapter with respect to the Federated Shan States and to the provisions of this Part of this Act with respect to the Burma Railway Board, the expression "revenues of Burma" includes all revenues and public moneys raised or received by the Government of Burma.

Expenditure defrayable out of revenues of Burma

351. No burden shall be imposed on the revenues of Burma except for the purposes of the government of Burma.

Duty of the Government of Burma to keep Secretary of State supplied with funds.

352. The Government of Burma shall secure that there are from time to time in the hands of the Secretary of State sufficient moneys to enable him to make such payments as he may have to make in respect of any liability which falls to be met out of the revenues of Burma.

Proceedings in the Legislature.

Annual financial *statement.*

353.—(1) The Governor shall in respect of every financial year cause to be laid before both Chambers of the Legislature a statement of the estimated receipts and expenditure of the Government of Burma for that year, in this chapter referred to as the "annual financial statement."

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

(*a*) the sums required to meet expenditure described by this Part of this Act as expenditure charged upon the revenues of Burma; and

(b) the sums required to meet other expenditure proposed to be made from the revenues of Burma,

l shall distinguish expenditure on revenue account m other expenditure, and indicate the sums, if any, ich are included solely because the Governor has ected their inclusion as being necessary for the due charge of any of his special responsibilities.

(3) The following expenditure shall be expenditure arged on the revenues of Burma:—

(a) the salary and allowances of the Governor and other expenditure relating to his office for which provision is required to be made by Order in Council;

(b) debt charges for which the Government of Burma is liable, including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;

(c) the salaries and allowances of ministers, of counsellors, of the financial adviser, of the Advocate General, of the personal and secretarial staffs of the Governor and of the staff of the financial adviser;

(d) the salaries, allowances, and pensions payable to and in respect of judges of the High Court;

(e) expenditure for the purpose of the discharge by the Governor of his functions with respect to defence, ecclesiastical affairs, monetary policy, currency and coinage, his functions with respect to external affairs in so far as he is by or under this Act required in the exercise thereof to act in his discretion, his functions in or in relation to areas in Burma which are not part of the territories of His Majesty and his functions in relation to the administration of any area specified in Part I of the Eleventh Schedule to this Act: provided that the sum so charged in any year in respect of expenditure on ecclesiastical affairs shall not exceed two hundred and eighty four thousand rupees, exclusive of pension charges;

A.D 1935
PART XIV. —*cont*

(*f*) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal;

(*g*) any other expenditure declared by this Part of this Act or any Act of the Legislature to be so charged.

(4) Any question whether any proposed expenditur[e] falls within a class of expenditure charged on the revenue[s] of Burma shall be decided by the Governor in his di[s]cretion.

Procedure in Legislature with respect to estimates

354.—(1) So much of the estimates of expenditur[e] as relates to expenditure charged upon the revenues o[f] Burma shall not be submitted to the vote of the Hous[e] of Representatives, but nothing in this subsection shal[l] be construed as preventing the discussion in eithe[r] Chamber of the Legislature of those estimates, othe[r] than estimates relating to expenditure referred to in sub paragraph (*a*) of subsection (3) of the last precedin[g] section.

(2) So much of the said estimates as relates to other expenditure shall be submitted, in the form of demands for grants, to the House of Representatives, and the House of Representatives shall have power to assent, or to refuse to assent, to any demand, or to assent to a demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Governor.

Authentication of schedule of authorised expenditure

355. The Governor shall authenticate by his signature a schedule specifying—

(*a*) the grants made by the House of Representatives under the last preceding section;

(*b*) [illegible] o meet the expenditure [illegible] of Burma but not [illegible] in the case of any sum, the sum shown in the statement previously laid before the Chambers:

Provided that if the House of Representatives have refused to assent to any demand for a grant or have assented to such a demand subject to a reduction of the amount specified therein, the Governor may, if in his

opinion the refusal or reduction would affect the due discharge of any of his special responsibilities include in the schedule such additional amount, if any, not exceeding the amount of the rejected demand or the reduction, as 5 the case may be, as appears to him necessary in order to enable him to discharge that responsibility

(2) The schedule so authenticated shall be laid before the House of Representatives but shall not be open to discussion or vote in the Legislature

10 (3) Subject to the provisions of the next succeeding section, no expenditure from the revenues of Burma shall be deemed to be duly authorised unless it is specified in the schedule so authenticated

Supplementary statement of expenditure

356. If in respect of any financial year further 15 expenditure from the revenues of Burma becomes necessary over and above the expenditure theretofore authorised for that year, the Governor shall cause to be laid before both Chambers of the Legislature a supplementary statement showing the estimated amount of 20 that expenditure, and the provisions of the preceding sections shall have effect in relation to that statement and that expenditure as they have effect in relation to the annual financial statement and the expenditure mentioned therein

Special provisions as to financial Bills

25 **357.**—(1) A Bill or amendment making provision—

(a) for imposing or increasing any tax or impost, whether local or general, or

30 (b) for authorising the borrowing of money, or the giving of any guarantee, by the Government, or for amending the law with respect to any financial obligations undertaken or to be undertaken by the Government, or

35 (c) for declaring any expenditure to be expenditure charged on the revenues of Burma, or for increasing the amount of any such expenditure,

shall not be introduced or moved except on the recommendation of the Governor, and a Bill making such provision shall not be introduced in the Senate

40 (2) A Bill or amendment shall not be deemed to make provision for any of the purposes aforesaid by reason only that it provides for the imposition of fines

A D 1935
Part XIV
—cont

or other pecuniary penalties or for the demand or payment of fees for licences, or fees for services rendered

(3) A Bill which, if enacted and brought into operation would involve expenditure from the revenues of Burma shall not be passed by either Chamber of the Legislature unless the Governor has recommended to that Chamber the consideration of the Bill

Borrowing

Borrowing powers and existing loans

358 —(1) The executive authority of Burma extends to borrowing upon the security of the revenues of Burma within such limits as may from time to time be fixed by Act of the Legislature and to the giving of guarantees within such limits as may be so fixed

(2) Any obligations of the Local Government of Burma which immediately before the commencement of this Part of this Act were secured upon its revenues shall after the said date be secured upon the revenues of Burma

Application of Colonial Stock Acts to stocks issued by Government of Burma

359 —(1) The Colonial Stock Acts, 1877 to 1900 shall notwithstanding anything to the contrary in those Acts apply in relation to sterling stock issued after the commencement of this Part of this Act and forming part of the public debt of Burma as they apply in relation to stock forming part of the public debt of any British Possession mentioned in those Acts, so however that nothing in section twenty of the Colonial Stock Act 1877 shall be construed as compelling a person desirous of bringing proceedings to proceed in the manner therein specified and that, until Parliament otherwise determines any conditions prescribed by the Treasury under section two of the Colonial Stock Act 1900 shall be deemed to have been complied with with respect to all such stock so issued by the Government of Burma

(2) The expression "colonial stock" in section eleven of the Trusts (Scotland) Act, 1921, shall include any stock in relation to which the said Acts apply by virtue of this section

Audit and Accounts

Auditor General of Burma

360.—(1) There shall be an Auditor General of Burma who shall be appointed by His Majesty and shall only be removed from office in like manner and on the like grounds as a judge of the High Court

(2) The conditions of service of the Auditor General shall be such as may be prescribed by His Majesty in Council, and he shall not be eligible for further office under the Crown in Burma after he has ceased to hold his office

Provided that neither the salary of an Auditor General nor his rights in respect of leave of absence pension or age of retirement shall be varied to his disadvantage after his appointment

(3) The Auditor General shall perform such duties and exercise such powers in relation to the accounts of the Government of Burma as may be prescribed by or by rules made under, an Order of His Majesty in Council or by any subsequent Act of the Legislature varying or extending such an Order

Provided that no Bill or amendment for the purpose aforesaid shall be introduced or moved without the previous sanction of the Governor in his discretion

(4) The salary allowances and pension payable to or in respect of an Auditor General shall be charged on the revenues of Burma

Accounts and audit

361.—(1) The accounts of the Government of Burma shall be kept in such form as the Auditor General of Burma may, with the approval of the Governor prescribe

(2) The reports of the *Auditor General* relating to the accounts of the Government of Burma shall be submitted to the Governor who shall cause them to be laid before the Legislature

(3) If His Majesty in Council makes provision requiring the Auditor of Indian *Home Accounts* to perform in relation to Burma all or any of the functions which he performs in relation to India

(a) any payments required by the Order to be made in respect of his services from the revenues of Burma shall be so made and shall be charged on those revenues,

A.D. 1935
PART XIV —*cont.*

(b) any reports submitted by the Auditor of Indi[a] Home Accounts to the Auditor General [of] Burma shall be included by the Auditor Gene[ral] in the reports which under this chapter [he] is required to submit to the Governor or the Secretary of State.

Federated Shan States.

Provisions as to the Federated Shan States.

362.—(1) Until His Majesty in Council makes oth[er] provision, there shall continue to be a Federal Fund [for] the Federated Shan States under the control of t[he] Governor in his discretion.

(2) His Majesty may by Order in Council—

(a) require contributions to be made to the sa[id] Fund out of the revenues of, or accruing i[n] the States comprised within the Federate[d] Shan States;

(b) require payments (representing the share [of] the annual receipts of the Government [of] Burma on revenue account properly allocab[le] to the said States) to be made from time [to] time out of the revenues of Burma to th[e] said Fund;

(c) require payments (representing the share of th[e] annual general expenses of the Governmen[t] of Burma properly allocable to the sa[id] States) to be made from time to time ou[t] of the said Fund to the revenues of Burma and

(d) make such other provision as he thinks fi[t] with respect to the manner in which the sa[id] Fund is to be dealt with.

(3) Any sums required under this section to be pai[d] out of the revenues of Burma shall be charged on thos[e] revenues.

(4) Such accounts shall be kept in respect of th[e] receipts and expenditure of the said Fund as the Auditor General of Burma may, with the approval of the Governo[r] in his discretion, prescribe, and the said accounts shall be audited by, or on behalf of, the Auditor General of Burma who shall make annual reports thereon to the Secretary of State.

CHAPTER VII

THE BURMA RAILWAY BOARD

Executive authority in respect of railways to be exercised by Railway Board

363 The executive authority of Burma in respect of the construction, maintenance and operation of railways in Burma shall be exercised by a Railway Board (hereinafter referred to as "the Board")

Composition &c of Board

364—(1) The Board shall consist of a President and eight other members

(2) The person who is for the time being the chief executive officer of the Board (who shall be called the chief railway commissioner) shall be President of the Board

The said chief railway commissioner shall be a person ith experience of railway administration, and shall be ppointed, and may at any time be removed from office the Governor in his discretion

(3) Of the eight other members of the Board two all be—

(a) a financial member, being a person with special experience of finance, who shall be appointed, and may at any time be removed from office, by the Governor exercising his individual judgment,

(b) the person who is for the time being the secretary to the Government of Burma in the department which for the time being deals with the subject of railways

The six other members of the Board are in this Part of this Act called the non official members

(4) Subject as aforesaid, the provisions of the Fourteenth Schedule to this Act, as supplemented or mended by any Act of the Legislature, shall have ffect with respect to the appointment qualifications nd conditions of service of members of the Board, nd with respect to its proceedings and its liability to come-tax

Provided that no Bill or amendment for supplementing or amending the said Schedule shall be introduced or moved in either Chamber of the Legislature without the previous sanction of the Governor in his discretion.

A D 1935

Part XIV.—*cont*

Directions and principles to be observed by Railway Board

365—(1) The Board in discharging its functions under this Act shall act on business principles, due regard being had by it to the interests of agriculture, industry, commerce and the general public, and in particular shall make proper provision for meeting out of its receipts on revenue account all expenditure to which such receipts are applicable under the provisions of this chapter

(2) In the discharge of its said functions the Board shall be guided by such instructions on questions of policy as may be given to it by the Government.

(3) The provisions of subsection (1) of this section shall apply in relation to the discharge by the Government of their functions with respect to railways as they apply in relation to the functions of the Board, but nothing in this subsection shall be construed as limiting the powers of the Governor under the next succeeding subsection

(4) The provisions of this Part of this Act relating to the special responsibilities of the Governor and to his duty as regards certain matters to exercise his functions in his discretion or to exercise his individual judgment, shall apply as regards matters entrusted to the Board as if the executive authority of Burma in regard to those matters were vested in him and as if the functions of the Board as regards those matters were the functions of ministers, and the Governor may issue to the Board such directions as he may deem necessary as regards any matter which appears to him to involve any of his special responsibilities, or as regards which he is by or under this Act required to act in his discretion or to exercise his individual judgment, and the Board shall give effect to any directions so issued to it

Conduct of business between Board and Government

366—(1) The Governor exercising his individual judgment, but after consultation with the Board, may make rules for the more convenient transaction of business arising out of the relations between the Government and the Board

(2) The rules shall include provisions requiring the Board to transmit to the Government all such information with respect to its business as may be specified in the rules, or as the Governor may otherwise require to

be so transmitted and, in particular, provisions requiring the Board to bring to the notice of the Governor any matter under consideration by the Board which involves, or appears to it likely to involve, any special responsibility of the Governor.

Acquisition and sale of land by and contracts and liabilities of, the Board.

367.—(1) Except in such classes of case as may be specified in regulations to be made by the Government, the Board shall not acquire or dispose of any land and, when it is necessary for the Board to acquire compulsorily any land for the purposes of its functions the Government shall acquire that land on its behalf and at its expense.

(2) Contracts made by or on behalf of the Board shall be enforceable against the Board and not against the Government, and, subject to any provision which may hereafter be made by the Legislature the Board may sue and be sued in the like manner and in the like cases as a company operating a railway might sue and be sued:

Provided that this subsection does not apply in relation to any contract declared by its terms to be supplemental to a contract made before the commencement of this Part of this Act and any such supplemental contract may be enforced in any manner in which the principal contract may be enforced.

Finance of the Railway Board.

368.—(1) The Board shall establish, maintain and control a fund (which shall be known as the "Railway Fund") and all moneys received by the Board whether on revenue account or on capital account, in the discharge of its functions and all moneys provided, whether on revenue account or capital account, out of the revenues of Burma to enable it to discharge those functions shall be paid into that Fund, and all expenditure whether on revenue account or on capital account required for the discharge of its functions shall be defrayed out of that Fund:

Provided that nothing in this subsection shall prevent the Board from establishing and maintaining a separate provident fund for the benefit of persons who are or have been employed in connection with railways.

(2) The receipts of the Board on revenue account in any financial year shall be applied in—

(*a*) defraying working expenses;

A D 1935
PART XIV
—*cont*

(*b*) paying pensions, and interest and bonuses on, and contributions to, any provident fund,

(*c*) making due provision for maintenance, renewals improvements and depreciation,

(*d*) making to the revenues of Burma any payments by way of interest which it is required by this chapter to make, and

(*e*) defraying other expenses properly chargeable against revenue in that year.

(3) Any surpluses on revenue account shown in the accounts of the Board shall be apportioned between the Government and the Board in accordance with a scheme to be agreed between the Government and the Board or in default of agreement, determined by the Governor exercising his individual judgment, and any sum apportioned to the Government under this subsection shall be transferred accordingly and shall form part of the revenues of Burma

(4) The Government may provide any moneys whether on revenue account or capital account, for the purposes of the Board, but, where any moneys are so provided, the provision thereof shall be deemed to be expenditure and shall accordingly be shown as such in the estimates of expenditure laid before the Chambers of the Legislature

(5) The Board shall, on such conditions as may be agreed, entrust all its money which is not immediately needed to the bank to which the balances of the Government of Burma are entrusted, and employ that bank as its agents for all transactions in Burma relating to remittances, exchange and banking

Provisions as to certain obligations of the Railway Board

369—(1) There shall be deemed to be owing from the Board to the Government of Burma such sum as may be agreed between the Government of Burma and the Board, or, in default of agreement, determined by the Governor in his discretion, to be equivalent to the amount of the moneys provided out of the revenues of Burma, or, before the commencement of this Part of this Act, out of the revenues of India, for capital purposes in connection with railways in Burma, and the Board shall out of its receipts on revenue account pay to the Government interest on that amount at such rate as may be so agreed or deter

mined, and also make payments in reduction of the principal of that amount in accordance with any repayment scheme so agreed or determined

A.D. 1935
PART XIV.
—*cont.*

(2) It shall be an obligation of the Board to pay to 5 the Government such sum as may be agreed, or, in default of agreement, determined by the Governor exercising his individual judgment to be the equivalent of the expenses incurred by the Government in the provision of police required for the maintenance of order on railway premises

Investment of funds

10 **370** Subject to such conditions, if any, as may be prescribed by the Government, the Board may from time to time invest any moneys in the railway fund or a provident fund which are not for the time being required to meet expenses properly defrayable out of 15 that fund and may subject as aforesaid from time to time transfer and realise investments so made by it

Special provisions as to certain funds

371 —(1) There shall be deemed to be owing by the Government of Burma to the Board such sum as may be declared by His Majesty [illegible] the amount 20 of the existing railway [illegible] railways in Burma, but no sum [illegible] Government of Burma to the Board in respect of the money so deemed to be owing except in respect of expenses of the Board which could if this Act had not been passed have properly 25 been met out of the said funds respectively

(2) There shall be paid out of the revenues of Burma to the Board in respect of the amount from time to time deemed to be owing under this subsection interest at such rate as may from time to time be agreed between the 30 Government and the Board or as may, in default of agreement, be from time to time determined by the Governor in his discretion

(3) In this section "the existing railway funds" means the funds known respectively as the railway 35 provident funds, the railway reserve funds and the railway depreciation funds which immediately before the commencement of this Part of this Act were held by, or were shown in the accounts of the Government of India as held by, the Governor General in Council

Audit and annual report

40 **372** —(1) The accounts of the receipts and expenditure of the Board shall be audited and certified by, or on behalf of, the Auditor General.

A D 1935

PART XIV —*cont*

(2) The Board shall publish annually a report of its operations during the preceding year and a statement of accounts in a form approved by the Auditor General

Railway Rates Committee

373 The Governor may from time to time appoint a Railway Rates Committee to advise the Board in connection with any dispute between persons using or desiring to use the railways and the Board as to rates or traffic facilities which he may require the Board to refer to the Committee

Bills and amendments for regulating rates and fares to require recommendation of Governor

374 A Bill or amendment making provision for regulating the rates or fares to be charged on any railway shall not be introduced or moved in either Chamber of the Legislature except on the recommendation of the Governor

CHAPTER VIII

THE HIGH COURT

Constitution of High Court

375 —(1) The High Court at Rangoon (in this Part of this Act called the High Court) shall continue, and shall be a court of record and shall consist of a chief justice and such number of other judges as His Majesty may deem it necessary to appoint

Provided that the judges so appointed, together with any additional judges appointed by the Governor in accordance with the following provisions of this chapter, shall at no time exceed in number such maximum number as His Majesty in Council may fix

(2) Every judge of the High Court shall be appointed by His Majesty by warrant under the Royal Sign Manual and shall hold office until he attains the age of sixty years

Provided that—

(*a*) a judge may by resignation under his hand addressed to the Governor resign his office

(*b*) a judge may be removed from his office by His Majesty by warrant under the Royal Sign Manual on the ground of misbehaviour or of infirmity of mind or body if the Judicial Committee of the Privy Council, on reference being made to them by His Majesty, report that the judge ought on any such ground to be removed

(3) A person shall not be qualified for appointment as a judge of the High Court unless he—

(a) is a barrister of England or Northern Ireland of at least ten years standing, or a member of the Faculty of Advocates in Scotland of at least ten years standing, or

(b) is a member of the Indian Civil Service or the Burma Civil Service (Class I) of at least ten years' standing, who has for at least three years served as, or exercised the powers of, a district judge; or

(c) has for at least five years held judicial office in Burma not inferior to that of a district judge or judge of the small cause court of Rangoon; or

(d) has for at least ten years been a pleader of the High Court

In computing for the purpose of this subsection the standing of a barrister or a member of the Faculty of Advocates, or the period during which a person has been a pleader, any period during which he has held judicial office, after he became a barrister, a member of the Faculty of Advocates or a pleader, as the case may be, shall be included

(4) Every person appointed to be a judge of the High Court shall before he enters upon his office make and subscribe before the Governor or some person appointed by him an oath according to the form set out in that behalf in the Thirteenth Schedule to this Act

Salaries &c of judges

376 The judges of the High Court shall be entitled to such salaries and allowances, including allowances for expenses in respect of equipment and travelling upon appointment, and to such rights in respect of leave of absence and pensions as may from time to time be fixed by His Majesty in Council

Provided that neither the salary of a judge nor his rights in respect of leave of absence or pension, shall be varied to his disadvantage after his appointment.

Temporary and additional appointments

377—(1) If the office of chief justice of the High Court becomes vacant, or if the chief justice is by reason of absence, or for any other reason, unable to perform the duties of his office, those duties shall,

A.D. 1935
PART XIV
—cont.

until some person appointed by His Majesty to the vacant office has entered on the duties thereof, or until the chief justice has resumed his duties, as the case may be, be performed by such one of the other judges of the court as the Governor may in his discretion think fit to appoint for the purpose.

(2) If the office of any other judge of the High Court becomes vacant, or if any such judge is appointed to act temporarily as chief justice, or is by reason of absence or for any other reason, unable to perform the duties of his office, the Governor may in his discretion appoint a person duly qualified for appointment as a judge to act as a judge of the court, and the person so appointed shall, unless the Governor in his discretion, thinks fit to revoke his appointment, be deemed to be a judge of the court until some person appointed by His Majesty to the vacant office has entered on the duties thereof or until the permanent judge has resumed his duties.

(3) If by reason of any temporary increase in the business of the High Court or by reason of arrears of work in that Court it appears to the Governor that the number of the judges of the Court should be for the time being increased the Governor in his discretion may, subject to the foregoing provisions of this chapter with respect to the maximum number of judges, appoint persons duly qualified for appointment as judges to be additional judges of the Court for such period not exceeding two years as he may specify.

Jurisdiction of High Court.

378. Subject to the provisions of this Part of this Act and to the provisions of any Act of the Legislature, the jurisdiction of and the law administered in the High Court and the respective powers of the judges thereof in relation to the administration of justice in the court, including any power to make rules of court and to regulate the sittings of the court and of members thereof sitting alone or in division courts, shall be the same as immediately before the commencement of this Part of this Act:

Provided that the High Court shall not have any greater powers of superintendence over any subordinate courts than are together conferred by the letters patent with respect to the High Court in force immediately

before the commencement of this Part of this Act, any existing Indian or Burman law, any Act of the Legislature, and the next succeeding section

A.D. 1935 PART XIV —cont

Administrative functions of High Court

379 The High Court has administrative superintendence over all courts for the time being subject to its appellate jurisdiction, and may do any of the following things, that is to say,—

(a) call for returns,

(b) make and issue general rules and prescribe forms for regulating the practice and proceedings of such courts,

(c) prescribe forms in which books, entries and accounts shall be kept by the officers of any such courts, and

(d) settle tables of fees to be allowed to the sheriff, attorneys, and all clerks and officers of courts

Provided that such rules, forms and tables shall not be inconsistent with the provisions of any law for the time being in force, and shall require the previous approval of the Governor.

Jurisdiction in revenue matters

380.—(1) Until otherwise provided by Act of the Legislature, the High Court shall not have any original jurisdiction in any matter, concerning the revenue or concerning any act ordered or done in the collection thereof according to the usage or practice of the country or the law for the time being in force

(2) A Bill or amendment for making such provision as aforesaid shall not be introduced or moved in either Chamber of the Legislature without the previous sanction of the Governor in his discretion

Additional appeal to His Majesty as respects interpretation of Act.

381.—(1) In addition to any other right of appeal there shall, subject to the provisions of section twenty of the Judicial Committee Act, 1833 (which relates to the time for appealing) be a right of appeal to His Majesty in Council from any decision of the High Court on the ground that a question of law with respect to the interpretation of this Part of this Act or any Order in Council made thereunder has been wrongly d

A D 1935
Part XIV —*cont*

(2) Nothing in this Part of this Act shall be construed as authorising the Legislature to derogate from any prerogative right of His Majesty to grant special leave to appeal in any criminal case

Proceedings in High Court to be in English

382 All proceedings in the High Court shall be in the English language

Expenses

383 —(1) The administrative expenses of the High Court including all salaries, allowances and pensions payable to or in respect of judges officers and servants of the Court shall be charged upon the revenues of Burma and any fees or other moneys taken by the Court shall form part of those revenues

(2) The Governor shall exercise his individual judgment as to the amount to be included in respect of such expenses as aforesaid in any estimates of expenditure laid by him before the Legislature

(3) Nothing in this Part of this Act shall render a pension payable to or in respect of a judge of the High Court who retired before the commencement of this Part of this Act chargeable upon the revenues of Burma

Saving

384 Any judge appointed before the commencement of this Part of this Act to the High Court shall continue in office and shall be deemed to have been appointed under this chapter but shall not by virtue of this Act be required to relinquish his office at an earlier age than he would have been required so to do if this Act had not been passed

CHAPTER IX

THE SERVICES OF THE CROWN IN BURMA

Defence Services

Control of His Majesty as to defence appointments

385 —(1) His Majesty in Council may require that appointments to such offices connected with defence as he may specify shall be made by him or in such manner as he may direct

(2) Nothing in this section derogates from any power vested in His Majesty by virtue of any Act or by virtue of his Royal Prerogative

386. The power of His Majesty, and of any person authorised in that behalf by His Majesty, to grant commissions in any naval, military or air forces raised in Burma extends to the granting of a commission in any such force to any person who might be, or has been, lawfully enlisted or enrolled in that force.

Eligibility for commissions in Burman forces

387. Without prejudice to the generality of the powers conferred on him by this Part of this Act, the Secretary of State may from time to time specify what rules, regulations and orders affecting the conditions of service of all or any of His Majesty's forces in Burma shall be made only with his previous approval

Control of Secretary of State with respect to conditions of service

388 Nothing in this Part of this Act affects any right of appeal which members of His Majesty's forces in Burma enjoyed immediately before the passing of this Act, and the Secretary of State may entertain any such memorial from a member of those forces as the Secretary of State, or the Secretary of State in Council, might previously have entertained

Saving of rights of appeal

389. Any sums payable out of the revenues of Burma in respect of pay, allowances, pensions or other sums payable to, or in respect of persons who are serving, or have served, in His Majesty's forces shall be charged on those revenues, but nothing herein contained shall be construed as limiting the interpretation of the general provisions of this Part of this Act charging on the said revenues expenditure with respect to defence.

Pay, &c., of members of forces to be charged on revenues of Burma

390. The provisions of the three last preceding sections shall apply in relation to persons who, not being members of His Majesty's forces, hold or have held posts in Burma connected with the equipment or administration of those forces or otherwise connected with defence, as they apply in relation to persons who are, or have been, members of those forces

Provision as to certain civilian personnel

General Provisions as to Civil Services

391.—(1) Except as expressly provided by this Part of this Act every person who is a member of a civil service of the Crown in Burma or holds any civil post under the Crown in Burma holds office during His Majesty's pleasure

Tenure of office of persons employed in civil capacities in Burma

A D 1935

PART XIV —cont

(2) Nothing in this Part of this Act shall be construed as authorising the Legislature to derogate from any prerogative right of His Majesty to grant special leave to appeal in any criminal case

Proceedings in High Court to be in English

382 All proceedings in the High Court shall be in the English language

Expenses

383 —(1) The administrative expenses of the High Court including all salaries, allowances and pensions payable to or in respect of judges, officers and servants of the Court, shall be charged upon the revenues of 10 Burma and any fees or other moneys taken by the Court shall form part of those revenues

(2) The Governor shall exercise his individual judgment as to the amount to be included in respect of such expenses as aforesaid in any estimates of expenditure 15 laid by him before the Legislature

(3) Nothing in this Part of this Act shall render a pension payable to or in respect of, a judge of the High Court who retired before the commencement of this Part of this Act chargeable upon the revenues of 20 Burma

Saving

384 Any judge appointed before the commencement of this Part of this Act to the High Court shall continue in office and shall be deemed to have been appointed under this chapter, but shall not by virtue 25 of this Act be required to relinquish his office at an earlier age than he would have been required so to do if this Act had not been passed

CHAPTER IX

THE SERVICES OF THE CROWN IN BURMA 30

Defence Services

Control of His Majesty as to defence appointments

385 —(1) His Majesty in Council may require that appointments to such offices connected with defence as he may specify shall be made by him or in such manner as he may direct 35

(2) Nothing in this section derogates from any power vested in His Majesty by virtue of any Act or by virtue of his Royal Prerogative

(3) The said rules shall be so framed as to secure—

(a) that, in the case of a person who before the commencement of this Part of this Act was serving His Majesty in a civil capacity in India or Burma, no order which alters or interprets to his disadvantage any rule by which his conditions of service are regulated shall be made except by an authority in Burma which would have been competent to make such an order on the eighth day of March, nineteen hundred and twenty-six, or by some person empowered by the Secretary of State to give directions in that respect;

(b) that every such person as aforesaid shall have the same rights of appeal to the same authorities from any order which—

(i) punishes or formally censures him; or

(ii) alters or interprets to his disadvantage any rule by which his conditions of service are regulated; or

(iii) terminates his appointment otherwise than upon his reaching the age fixed for superannuation,

as he would have had immediately before the commencement of this Part of this Act, or such similar rights of appeal to such corresponding authorities as may be directed by the Secretary of State or by some person empowered by the Secretary of State to give directions in that respect;

(c) that every other person serving His Majesty in a civil capacity in Burma shall have at least one appeal against any such order as aforesaid, not being an order of the Governor.

(4) Notwithstanding anything in this section, but subject to any other provision of this Act, Acts of the Legislature may regulate the conditions of service of persons serving His Majesty in a civil capacity in Burma

and any rules made under this section shall have effect subject to the provisions of any such Act :

Provided that nothing in any such Act shall have effect so as to deprive any person of any rights required to be given to him by the provisions of the last preceding subsection

(5) No rules made under this section and no Act of the Legislature shall be construed to limit or abridge the power of the Governor to deal with the case of any person serving His Majesty in a civil capacity in Burma in such manner as may appear to him to be just and equitable .

Provided that where any such rule or Act is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by that rule or Act

Application of preceding section to railway services and officials of High Court

393.—(1) In its application to appointments to, and to persons serving in, the railway services, the last preceding section shall have effect as if for any reference to the Governor in subsections (1), (2) and (5) there were substituted a reference to the Railway Board

(2) In framing rules for the regulation of recruitment to superior railway posts the Railway Board shall consult the Public Service Commission, but, save as aforesaid, it shall not be obligatory on the Board to consult with, or otherwise avail themselves of the services of, the Commission

(3) In its application to appointments to, and to persons serving on, the staff attached to the High Court, the said section shall have effect as if for any reference to the Governor in subsections (1), (2) and (5) there were substituted a reference to the chief justice

Provided that—

(a) the Governor may in his discretion require that in such cases as he may in his discretion direct no person not already attached to the court shall be appointed to any office connected with the court save after consultation with the Public Service Commission ;

(b) rules made under the said subsection (2) by the chief justice shall, so far as they relate to salaries or pensions, require the approval of the Governor.

5 **394.** Notwithstanding anything in the foregoing provisions of this chapter, the conditions of service of the subordinate ranks of the police forces shall be such as may be determined by or under the Acts relating to those forces respectively.

Special provisions as to police.

Recruitment by Secretary of State and provisions as to certain civil posts.

395.—(1) There shall be civil services in Burma corresponding to the Indian Civil Service, the Indian Medical Service (Civil) and the Indian Police Service, which shall be known respectively as the Burma Civil Service (Class 1), the Burma Medical Service (Class 1) and the Burma Police (class 1), and appointment to those services shall be made by the Secretary of State.

Services recruited by the Secretary of State.

(2) The Secretary of State may also make appointments to any service or services which at any time he may deem it necessary to establish in Burma for the purpose of securing the recruitment of suitable persons to fill civil posts in connection with the discharge of any functions of the Governor which the Governor is by or 25 under this Act required to exercise in his discretion.

(3) The respective strengths of the said services shall be such as the Secretary of State may from time to time prescribe, and the Secretary of State shall in each year cause to be laid before each House of Parlia- 30 ment a statement of the appointments made thereto and the vacancies therein.

396. If, after the commencement of this Part of this Act, circumstances arise which in the opinion of the Secretary of State render it necessary for him so to do in 35 order to secure efficiency in irrigation or the prevention of flooding, he may appoint persons to any civil service of, or civil post under, the Crown in Burma, concerned with those matters.

Special provision as to irrigation.

A.D. 1935.

PART XIV. —*cont.*

Reserved posts.

397.—(1) The Secretary of State shall make rules specifying the number and character of the civil posts under the Crown (other than posts in connection with any functions of the Governor which the Governor is by or under this Act required to exercise in his discretion), which are normally to be filled by persons appointed by the Secretary of State to a civil service of, or a civil post under, the Crown in Burma, and except under such conditions as may be prescribed in the rules no such post shall, without the previous sanction of the Secretary of State—

(*a*) be kept vacant for more than three months; or

(*b*) be filled otherwise than by the appointment of such a person as aforesaid; or

(*c*) be held jointly with any other such post.

(2) Appointments to the said posts (hereafter in this chapter referred to as "reserved posts") shall be made by the Governor, exercising his individual judgment.

(3) All rules made under this section shall, so soon as may be after they are made, be laid before each House of Parliament, and if either House of Parliament within the next subsequent twenty-eight days on which that House has sat after any such rule has been laid before it resolves that the rule shall be annulled, the rule shall thenceforth be void but without prejudice to the validity of anything previously done thereunder or to the making of a new rule.

Conditions of service, pensions, &c., of persons recruited by Secretary of State.

398.—(1) The conditions of service of all persons appointed to a civil service in Burma by the Secretary of State shall—

(*a*) as respects pay, leave and pensions, be such as may be prescribed by rules to be made by the Secretary of State;

(*b*) as respects other matters with respect to which express provision is not made by this chapter, be such as may be prescribed by rules to be made by the Secretary of State in so far as he thinks fit to make such rules, and in so far and so long as provision is not made by such rules, by rules to be made by the Governor or some person authorised by the Governor to make rules for the purpose:

Provided that no rule made under this subsection shall have effect so as to give to any person appointed to a civil service by the Secretary of State less favourable terms as respects remuneration or pension than were given to him by the rules in force on the date on which he was first appointed to his service.

(2) Any salary, allowances or pension payable to, or in respect of, and Government contributions in respect of any such person as aforesaid to any pension fund or provident funds, shall be charged on the revenues of Burma.

(3) No award of a pension less than the maximum pension allowable under rules made under this section shall be made, except in each case with the consent of the Secretary of State.

(4) No rules made under this section shall be construed to limit or abridge the power of the Secretary of State to deal with the case of any person serving His Majesty in a civil capacity in Burma in such manner as may appear to him to be just and equitable, and no rules made under this section by any person other than the Secretary of State shall be construed to limit or abridge the power of the Governor to deal with the case of any such person in such manner as may appear to him to be just and equitable:

Provided that where any rule made under this section is applicable to the case of any person, the case shall not be dealt with in any manner less favourable to him than that provided by the rule.

Rights in respect of complaints, appeals, &c.

399.—(1) If any person appointed to a civil service by the Secretary of State is aggrieved by an order made by any authority in Burma affecting his conditions of service and on due application to the person by whom the order was made does not receive the redress to which he considers himself entitled he may without prejudice to any other mode of obtaining redress, complain to the Governor and the Governor shall examine into the complaint and cause such action to be taken thereon as appears to him in his discretion to be just and equitable.

(2) No order made by any authority in Burma which punishes or formally censures any such

A.D. 1935
PART XIV
—cont.

as aforesaid or affects adversely his emoluments or rights in respect of pension or decides adversely to him the subject matter of any memorial, shall be made except by the Governor, exercising his individual judgment. 5

(3) Any person appointed to a civil service by the Secretary of State may appeal to the Secretary of State against any order made by any authority in Burma which punishes or formally censures him, or alters or interprets to his disadvantage any rule by which his conditions of 10 service are regulated.

(4) Any sums ordered to be paid out of the revenues of Burma to or in respect of any such person as aforesaid on an appeal made under this section shall be charged on those revenues. 15

Compensation for loss of rights.

400.—(1) If by reason of anything done under this chapter the conditions of service of any person appointed to a civil service in Burma by the Secretary of State have been adversely affected, or if for any other 20 reason it appears to the Secretary of State that compensation ought to be granted to, or in respect of, any such person, he or his representatives shall be entitled to receive from the revenues of Burma such compensation as the Secretary of State may consider just and equitable.

(2) Any sum payable under this section from the 25 revenues of Burma shall be charged on those revenues.

(3) For the avoidance of doubt it is hereby declared that the foregoing provisions of this section in no way prohibit expenditure by the Governor from the revenues 30 of Burma by way of compensation to persons who are serving or have served His Majesty in Burma in cases to which those provisions do not apply.

Provision as to persons appointed by Secretary of State in Council, persons holding reserved posts and commissioned officers in civil employment. 35

Application of four last preceding sections to persons appointed

401.—(1) Subject to the provisions of this section, the provisions of the four last preceding sections and any rules made thereunder shall apply in relation to any person who was appointed before the commencement of this Part of this Act by the Secretary of State in Council 40

to a civil service of, or a civil post under, the Crown in Burma as they apply in relation to persons appointed to a civil service by the Secretary of State.

A.D. 1935. PART XIV. —*cont.*

by Secretary of State in Council, persons holding reserved posts and commissioned officers in civil employment.

5 (2) Subject to the provisions of this section, the said sections and rules shall, in such cases and with such exceptions and modifications as the Secretary of State may decide, also apply to any person who—

(*a*) not being a person appointed as aforesaid by the Secretary of State or the Secretary of State in Council, holds or has held a reserved post; or

10

(*b*) holds or has held any civil post under the Crown in Burma and is, or was when he was first appointed to such a post or to a civil post under the Crown in India, an officer in His Majesty's forces.

5

(3) In relation to any person who was appointed before the commencement of this Part of this Act to a civil service of, or to a civil post under, the Crown in Burma, the provision contained in the sections aforesaid that no rule as to conditions of service shall have effect so as to give to any person less favourable terms as regards remuneration or pension than were given to him by the rules in force on the date on which he was first appointed to his service, shall be construed as a provision that no such rule shall have effect so as to give to any person less favourable terms as respects the said matters than were given to him by the rules in force immediately before the coming into operation of the rule.

30 (4) In its application by virtue of this section to persons serving in the railway services of Burma, the second of the four last preceding sections (which relates to the conditions of service, pensions, etc., of persons recruited by the Secretary of State) shall have effect as if for any reference to the Governor in paragraph (*b*) of
35 subsection (1) thereof and in subsection (4) thereof there were substituted a reference to the Railway Board.

(5) Nothing in this section shall be construed as charging on the revenues of Burma any pensions payable to or in respect of any person to whom this section applies
40 who retired from the service of His Majesty before commencement of this Part of this Act.

A.D. 1935

PART XIV —cont.

Special Provisions as to Judicial Officers

Judges of the High Court

402. The foregoing provisions of this chapter shall not apply to the judges of the High Court.

Provided that—

(a) for the purposes of this section a member of any of the civil services of the Crown in Burma who is acting temporarily as a judge of the High Court shall not be deemed to be a judge of that court;

(b) nothing in this section shall be construed as preventing the Orders in Council relating to the salaries, leave and pensions of judges of the High Court from applying to such of those judges as were, before they were appointed judges, members of a civil service of the Crown in Burma or India, such of the rules relating to that service or the corresponding service in Burma as may appear to His Majesty to be properly applicable in relation to them.

District judges, &c.

403.—(1) Appointments of persons to be, and the posting and promotion of, district judges in Burma shall be made by the Governor, exercising his individual judgment and the minister concerned shall before making any recommendation to the Governor as to any such appointment consult the High Court.

(2) A person not already in the service of His Majesty shall only be eligible to be appointed a district judge if he is a barrister, a member of the Faculty of Advocates, or a pleader and is recommended by the High Court for appointment.

(3) In this and the next succeeding section the expression "district judge" includes district and sessions judge, sessions judge, additional district and sessions judge, additional district judge and additional sessions judge.

Subordinate civil judicial service

404.—(1) The Governor shall, after consultation with the Public Service Commission and with the High Court, make rules defining the standard of qualifications to be attained by persons desirous of entering a subordinate civil judicial service.

In this section the expression "subordinate civil judicial service" means a service consisting of persons

intended to fill civil judicial posts in Burma subordinate to that of district judge

A D 1935

PART XIV —*cont*

(2) The Public Service Commission, after holding such examinations, if any, as the Governor may think necessary, shall from time to time out of the candidates for appointment to a subordinate civil judicial service make a list or lists of the persons whom they consider fit for appointment and appointments shall be made by the Governor from the persons included in the list or lists

(3) The posting and promotion of and the grant of leave to, persons belonging to a subordinate civil judicial service and holding any post inferior to the post of district judge, shall be in the hands of the High Court, but nothing in this section shall be construed as taking away from any such person the right of appeal required to be given to him by the foregoing provisions of this chapter, or as authorising the High Court to deal with any such person otherwise than in accordance with the conditions of his service prescribed thereunder

Subordinate criminal magistracy

405 No recommendation shall be made for the grant of magisterial powers or of enhanced magisterial powers, to any person save after consultation with the district magistrate of the district in which he is working

Special Provisions as to Burma Frontier Service

Burma Frontier Service

406 —(1) Appointments to the Burma Frontier Service shall be made by the Governor in his discretion, and in relation to persons who are or have been members of that service the powers of the Governor under this chapter shall be exercised by him in his discretion

(2) Except so far as the Governor in his discretion otherwise directs, no Act of the Legislature for regulating the conditions of service of persons serving His Majesty in a civil capacity in Burma shall apply in relation to persons who are members of the Burma Frontier Service

(3) Any salaries allowances or pensions payable to or in respect of any persons who are or have been members of the Burma Frontier Service, and any Government contributions in respect of any such person to any pension fund or provident fund, shall be charged on the revenues of Burma

A.D. 1935

PART XIV —cont.

Provisions for the protection of certain existing officers

Provision for protection of existing officers of "Central Services Class I and II" and "Provincial Services".

407.—(1) No civil post in Burma which, immediately before the commencement of this Part of this Act, was a post in, or a post required to be held by some member of, a Central Service Class I, a Central Service Class II or a Provincial Service shall, if the abolition thereof would adversely affect any person who, immediately before the said date was a member of any such service, be abolished, except by the Governor, exercising his individual judgment.

(2) No rule or order affecting adversely the pay, allowances or pensions payable to, or in respect of, a person appointed before the commencement of this Part of this Act to a Central Service Class I or to a Provincial Service, and no order upon a memorial submitted by any such person, shall be made except by the Governor exercising his individual judgment.

(3) In relation to any person mentioned in this section who was appointed to a civil service of the Crown in Burma by the Secretary of State or the Secretary of State in Council, or is an officer in His Majesty's forces, the foregoing provisions of this section shall have effect as if for the reference to the Governor there was substituted a reference to the Secretary of State.

Provisions as to certain persons serving in or before 1924.

408.—(1) The salary and allowances of any person who was appointed before the first day of April, nineteen hundred and twenty four, otherwise than by the Secretary of State in Council, to a service or a post which at any time between that date and the commencement of this Part of this Act was classified as a superior service or post shall be charged on the revenues of Burma. 30

(2) Any pension payable to or in respect of any such person as aforesaid, and any government contributions to any provident fund or pensions fund in respect of any such person, shall be charged on the revenues of Burma. 35

(3) Nothing in this section shall be construed as charging on the revenues of Burma any pension payable to or in respect of any person who retired from the service of His Majesty before the commencement of this Part of this Act. 40

A.D. 1935
PART XIV
—cont.

Provision as to other persons retiring before commencement of this Part of this Act

409—(1) Any pension payable to or in respect of any person who retired from a civil service of or a civil post under His Majesty before the coming into operation of this Act shall be paid out of the revenues of Burma if it would have been payable by the Local Government of Burma if this Act had not been passed

Provided that nothing in this subsection shall apply to any pension which is charged on or payable out of the revenues of the Federation of India

(2) There shall be paid to the Federation out of the revenues of Burma and charged on those revenues such sums as may be required to make good to the revenues of the Federation any liability in respect of any pension charged on or payable out of the revenues of the Federation which would if this Act had not been passed have been a liability of the Local Government of Burma

Miscellaneous provisions as to civil services

Application to members of Indian services serving in Burma

410 In this chapter references to persons appointed to a civil service of the Crown in Burma include references to persons appointed before the commencement of this Part of this Act to a civil service of the Crown in India who were before that date serving in Burma and continue so to serve and the requirement that no person shall be dismissed from the service of His Majesty by any authority subordinate to that by which he was appointed shall in relation to any such person appointed by any authority in India be construed as a requirement that he shall not be so dismissed by any authority subordinate to such authority in Burma as the Governor may in his discretion decide to correspond to the authority by which he was appointed

Provisions as to advisers

411. The powers conferred by the foregoing provisions of this chapter on the Secretary of State (other than powers in relation to defence services) shall not be exercisable by him except with the concurrence of his advisers and the advisers of the Secretary of State appointed under the provisions of this Act relating to India

A D 1935

Part XIV —*cont*

Power by Order in Council to transfer certain powers of Secretary of State

412. His Majesty in Council may transfer to such authority as may be specified in his Order all or any of the powers conferred by the foregoing provisions of this chapter on the Secretary of State with respect to the making of appointments, but nothing in any such Order shall affect the functions of the Secretary of State in relation to persons appointed before the Order comes into operation

Public Service Commission

Composition staff and expenses of Public Service Commission

413.—(1) There shall be a Public Service Commission, the chairman and other members whereof shall be appointed by the Governor in his discretion

(2) The Governor in his discretion may by regulations—

(a) determine the number of members of the Commission, their tenure of office, and their conditions of service,

(b) make provision with respect to the numbers of staff of the commission and their conditions of service

(3) On ceasing to hold office—

(a) the chairman of the Commission shall be ineligible for further employment under the Crown in Burma,

(b) no other member of the Commission shall be eligible for any other appointment under the Crown in Burma without the approval of the Governor in his discretion

(4) The expenses of the Commission, including any salaries allowances and pensions payable to or in respect of the members or staff of the Commission, shall be charged on the revenues of Burma

Functions of Public Service Commission

414.—(1) It shall be the duty of the Public Service Commission to conduct examinations for appointments to civil services

(2) The Secretary of State, as respect services and posts to which appointments are made by him, and the Governor in his discretion as respects other services and

posts, may make regulations specifying the matters on which either generally or in any particular class of case or in any particular circumstances it shall not be necessary for the Public Service Commission to be consulted but, subject to regulations so made, the Commission shall be consulted—

(a) on all matters relating to methods of recruitment to civil services and for civil posts;

(b) on the principles to be followed in making appointments to civil services and posts and in making promotions and transfers from one service to another and on the suitability of candidates for such appointments, promotions or transfers;

(c) on all disciplinary matters affecting a person serving His Majesty in a civil capacity in Burma, including memorials or petitions relating to such matters;

(d) on any claim by or in respect of a person who is serving or has served His Majesty in a civil capacity that any costs incurred by him in defending legal proceedings instituted against him in respect of acts done or purporting to be done in the execution of his duty should be paid out of the revenues of Burma;

(e) on any claim for the award of a pension in respect of injuries sustained by a person while serving His Majesty in a civil capacity in Burma and any question as to the amount of any such award;

(f) on any claim by a person serving His Majesty in a civil capacity in Burma that his conditions of service have been adversely affected by the separation of Burma from India;

and it shall be the duty of the Commission to advise on any matter so referred to them and on any other matter which the Governor in his discretion may refer to them.

Power to extend functions.

415. Subject to the provisions of this section an Act of the Legislature may provide for the exercise of additional functions by the Public Service Commission:

A.D. 1935

PART XIV. —*cont*

of Public Service Commission

Provided that—

(*a*) no Bill or amendment for the purpose afore said shall be introduced or moved in either Chamber of the Legislature without the previous sanction of the Governor in his discretion, and

(*b*) it shall be a term of every such Act that the functions conferred by it shall not, except with the consent of the Secretary of State, be exercisable in relation to any person appointed to a srvice or a post by the Secretary of State or by the Secretary of State in Council, an officer in His Majesty's Forces or any holder of a reserved post

Chaplains.

Provisions as to chaplains

416. The Secretary of State may appoint chaplains to minister in Burma, and the foregoing provisions of this Part of this Act shall, with any necessary modifications, apply in relation to the chaplains in Burma appointed by him and by the Secretary of State in Council as they apply in relation to members of the civil service in Burma to which appointments are made by the Secretary of State.

General

Indemnity for past acts

417.—(1) No proceedings civil or criminal shall be instituted in Burma against any person in respect of any act done or purporting to be done in the execution of his duty as a servant of the Crown in India or Burma before the commencement of this Part of this Act, except with the consent of the Governor in his discretion

(2) Any civil or criminal proceedings instituted in Burma, whether before or after the commencement of this Part of this Act, against any person in respect of any act done or purporting to be done in the execution of his duty as a servant of the Crown in India or Burma before the said date shall be dismissed unless the court is satisfied that the acts complained of were not done in good faith, and where any such proceedings are dismissed the costs incurred by the defendant shall, in so far as

they are not recoverable from the persons instituting the proceedings, be charged on the revenues of Burma.

Exemption of pensions from taxation in Burma

418. Any pension payable to or in respect of a person who—

(a) before the commencement of this Part of this Act had served His Majesty in India, Burma or Aden, or elsewhere under the Governor General in Council; or

(b) after the commencement of this Part of this Act—

(i) serves in Burma as an officer of His Majesty's forces, or

(ii) is appointed to a civil service of, or to an office or post under, the Crown in Burma by His Majesty or the Secretary of State; or

(iii) holds a reserved post,

shall be exempt from all taxation imposed by or under any existing Indian or Burman law or any law of the Legislature, if the person to whom the pension is payable is residing permanently outside Burma.

Transitional provisions

419. Until other provision is made under the appropriate provisions of this Part of this Act, any rules made under the Government of India Act relating to the civil service of the Crown in India which were in force immediately before the commencement of this Part of this Act, shall, notwithstanding the repeal of that Act, continue in force in Burma so far as consistent with this Act, and shall then be deemed to be rules made under the appropriate provisions of this Act.

Interpretation, &c.

420.—(1) In this chapter—

the expressions "Central Service Class I," "Central Service Class II" and "Provincial Service" mean respectively the services which were immediately before the passing of this Act Central Services Class I, Central Services Class II and Provincial Services within the meaning of the classification rules then in force under section ninety six B of the Government of India Act;

references to dismissal from His Majesty's service include references to removal from His Majesty's service.

A D 1935

PART XIV —cont

(2) The Rules Publication Act, 1893, shall not apply to any rules or regulations made under this chapter

(3) The inclusion in this chapter of provisions expressly requiring the Governor to exercise his individual judgment with respect to any matter shall not be construed as derogating from his special responsibility for the securing to members of the Public Services of any rights provided for them by or under this Act and the safeguarding of their legitimate interests

CHAPTER X

PROPERTY CONTRACTS LIABILITIES AND SUITS

Provisions as to existing Government property

421 —(1) Lands and buildings in Burma which immediately before the commencement of this Part of this Act were vested in His Majesty for the purposes of the government of India shall, as from that date, vest in His Majesty for the purposes of the government of Burma

(2) Subject to the provisions of the preceding subsection all property which, by virtue of any delegation from the Secretary of State in Council or otherwise is at the commencement of this Part of this Act in the possession or under the control of the Governor of Burma in Council shall on and after that date, be deemed to be in the possession or under the control of the Government of Burma, and all credits and debits of the Governor of Burma in Council in account with the Governor General of India in Council shall be deemed to be credits and debits of the Government of Burma

(3) In this section "property" includes money securities bank balances, and movable property of any description

Power to acquire property and to make contracts &c

422 —(1) The executive authority of Burma shall extend subject to any Act of the Legislature, to the grant sale disposition or mortgage of any property vested in His Majesty for the purposes of the government of Burma and to the purchase or acquisition of property on behalf of His Majesty for those purposes, and to the making of contracts

Provided that an official residence of the Governor shall not be sold or diverted to other use, except with the concurrence of the Governor in his discretion

(2) All property acquired for the purposes of the government of Burma shall vest in His Majesty for those purposes.

A.D. 1935

PART XIV —cont.

(3) All contracts made in the exercise of the 5 executive authority of Burma shall be expressed to be made by the Governor, and all such contracts and all assurances of property made in the exercise of that authority shall be executed on behalf of the Governor by such persons and in such manner as he may direct or 10 authorise.

(4) Neither the Governor nor the Secretary of State shall be personally liable in respect of any contract or assurance made or executed for the purposes of this Part of this Act, or for the purposes of the Government of 5 India Act or of any Act repealed thereby, nor shall any person making or executing any such contract or assurance on behalf of either of them be personally liable in respect thereof.

Suits and proceedings.

423.—(1) The Government of Burma may sue and be sued by the name of the Government of Burma and, without prejudice to the provisions of the next succeeding section, may, subject to any provisions which may be made by Act of the Legislature, sue or be sued in relation to their affairs in the like cases as the Secretary of State in Council might have sued or been sued if this Act had not been passed.

(2) Rules of court may provide that where the Government of Burma or the Railway Board sue or are sued in the United Kingdom, service of all proceedings may be effected upon such person in the United Kingdom as may be designated in the rules as the person on whom service of such proceedings is to be effected.

Rights and liabilities of Secretary of State in Council.

424.—(1) Any contract made before the commencement of this Part of this Act by, or on behalf of, the Secretary of State in Council shall as from that date if it was made solely in connection with the affairs of Burma, have effect as if it had been made on behalf of the Government of Burma.

(2) Any proceedings relating to contracts or liabilities solely in connection with the affairs of Burma which,

A D 1935
PART XIV
—*cont*

if this Act had not been passed, might have been brought against the Secretary of State in Council may, in the case of any liability arising before the commencement of this part of this Act or arising under any contract or statute made or passed before that date, be brought against the Government of Burma, or, at the option of the person by whom the proceedings are brought, against the Secretary of State.

The provisions of this subsection shall apply with respect to proceedings arising under any contract declared by the terms thereof to be supplemental to any such contract as is mentioned therein as they apply in relation to the contracts so mentioned.

(3) If at the commencement of this Part of this Act any legal proceedings are pending in the United Kingdom or Burma to which the Secretary of State in Council is a party, the Secretary of State shall be substituted in those proceedings for the Secretary of State in Council

(4) Any contract made in respect of the affairs of Burma by or on behalf of the Secretary of State after the commencement of this Part of this Act may provide that any proceedings under that contract shall be brought in the United Kingdom by or against the Secretary of State, and any such proceedings may be brought accordingly.

(5) Any sum ordered to be paid by way of debt, damages or costs, and any costs or expenses incurred in or in connection with, any proceedings mentioned in this section by the Secretary of State, the Secretary of State in Council or the Government of Burma shall be paid out of the revenues of Burma

(6) Nothing in this section shall be construed as imposing any liability upon the Exchequer of the United Kingdom in respect of any debt, damages, costs or expenses in or in connection with any proceedings brought or continued by or against the Secretary of State by virtue of this section, or as derogating from the provisions of this Act securing obligations of the Secretary of State in Council on the revenues of the Federation of India and every Province in India

CHAPTER XI

Miscellaneous Provisions as to Relations with India

Financial settlement as between India and Burma

425. Whereas it may appear that the distribution of property and liabilities effected by this Act as between India and Burma may result in an undue burden on the revenues of the Federation, His Majesty in Council may if he thinks it just so to do make provision for the payment to the revenues of the Federation out of the revenues of Burma, and for the charging on the revenues of Burma, of such periodical or other sums as may appear to him to be proper

Provisions as to *Customs* duties &c

426 With a view to preventing undue disturbance of trade between India and Burma in the period immediately following the separation of India and Burma and with a view to safeguarding the economic interests of Burma during that period, His Majesty in Council may give such directions as he thinks fit for those purposes with respect to the duties which are while the Order is in force to be levied on goods imported into or exported from India or Burma and with respect to ancillary and related matters

Relief in respect of tax on income taxable both in India and Burma

427 His Majesty in Council may make provision for the grant of relief from any Burman tax on income in respect of income taxed or *taxable by or* under the law of the Federation of India

Provisions as to monetary system

428 His Majesty in Council may make such provision with respect to the monetary system of Burma and matters connected *therewith* and ancillary thereto as he thinks fit and in particular but without prejudice to the generality of this section such provisions as may appear to him to be *necessary or proper* for the purpose of giving effect to any arrangements with respect to the said matters made before the *commencement* of this Part of this Act with the approval of the Secretary of State by the Governor of Burma in Council

Provisions as to immigration from India

429 His Majesty in *Council* may direct that during such period as may be specified in the Order immigration into Burma from India shall be subject to such *restrictions* as may be specified in the Order (being such restrictions as *may* have been *mutually* agreed

before the commencement of this Part of this Act between the Governor of Burma in Council and the Governor General of India in Council and approved by the Secretary of State, or in default of agreement as may have been prescribed by the Secretary of State), and no other restrictions

Provided that any such Order may be varied by a subsequent Order in Council in such manner as appears to His Majesty necessary to give effect to any agreement in that behalf made after the commencement of this Part of this Act, by the Governor with the Governor General of India or the Governor General of India in Council

CHAPTER XII

PROVISIONS IN EVENT OF FAILURE OF CONSTITUTIONAL MACHINERY

Power of Governor to issue proclamations

430.—(1) If at any time the Governor is satisfied that a situation has arisen in which the government of Burma cannot be carried on in accordance with the provisions of this Part of this Act, he may by Proclamation—

(*a*) declare that his functions shall, to such extent as may be specified in the Proclamation, be exercised by him in his discretion,

(*b*) assumee to himself all or any of the powers vested in or exercisable by any body or authority in Burma;

and any such Proclamation may contain such incidental and consequential provisions as may appear to him to be necessary or desirable to give effect to the objects of the Proclamation, including provisions for suspending in whole or in part the operation of any provisions of this Act relating to any body or authority in Burma.

Provided that nothing in this subsection shall authorise the Governor to assume to himself any of the powers vested in or exercisable by the High Court or to suspend, either in whole or in part, the operation of any provisions of this Part of this Act relating to the High Court

(2) Any such Proclamation may be revoked or varied by a subsequent Proclamation.

(3) A Proclamation under this section—

(*a*) shall be communicated forthwith to the Secretary of State and shall be laid by him before each House of Parliament;

5 (*b*) unless it is a Proclamation revoking a previous Proclamation, shall cease to operate at the expiration of six months unless before the expiration of that period it has been approved by Resolutions of both Houses of Parliament.

(3) The functions of the Governor under this section shall be exercised by him in his discretion.

CHAPTER XIII.

Provisions as to Secretary of State.

Advisers to Secretary of State.

431.—(1) There shall be not more than three persons, to be appointed from time to time by the Secretary of State, whose duty it shall be to advise the Secretary of State on any matter relating to Burma on which he may desire their advice.

(2) One at least of the persons for the time being holding office under this section as advisers of the Secretary of State shall be a person who has held office for at least ten years under the Crown in Burma and has not last ceased to perform in Burma official duties under the Crown more than two years before the date of his appointment as an adviser under this section.

(3) Any person appointed as an adviser to the Secretary of State shall hold office for a term of five years and shall not be eligible for reappointment:

Provided that—

(*a*) any person so appointed may by writing under his hand resign his office to the Secretary of State;

(*b*) the Secretary of State may, if he is satisfied that any person so appointed has by reason of infirmity of mind or body become unfit to continue to hold his office, by order remove him from his office.

(4) A person for the time being holding office as adviser to the Secretary of State shall not be capable of sitting or voting in either House of Parliament.

A.D 1935

Part XIV —*cont*

(5) There shall be paid out of moneys provided by Parliament to each of the advisers of the Secretary of State a salary of thirteen hundred and fifty pounds a year and also to any of them who at the date of his appointment was domiciled in Burma a subsistence allowance of six hundred pounds a year

(6) Subject to the provisions of this Act relating to the functions of the Secretary of State with respect to the public services in Burma, it shall be in the discretion of the Secretary of State whether or not he consults with his advisers on any matter and, if so, whether he consults with them collectively or with one or more of them individually, and whether or not he acts in accordance with any advice given to him by them

(7) Any provision of this Part of this Act which requires that the Secretary of State shall obtain the concurrence of any body of advisers shall be deemed to be satisfied if at a meeting of those advisers he obtains the concurrence of at least one half of those present at the meeting

Contributions from revenues of Burma to expenses of Secretary of State in certain circumstances

432 —(1) There shall be charged on and paid out of the revenues of Burma into the Exchequer such periodical or other sums as may from time to time be agreed between the Governor and the Treasury in respect of so much of the expenses of the Department of the Secretary of State as is attributable to the performance on behalf of the Government of Burma of such functions as it may be agreed between the Secretary of State and the Governor that that department should so perform

(2) Nothing in this Part of this Act shall be construed as imposing upon the revenues of Burma any liability in respect of the salary of the Secretary of State or, subject to the provisions of subsection (1) of this section, any liability in respect of the expenses of his department

(3) Any expenses incurred with the consent of the Treasury by the Secretary of State for the purposes of this Part of this Act shall be defrayed out of moneys provided by Parliament

CHAPTER XIV

Miscellaneous

Power of His Majesty to delimit boundaries of Burma

433 His Majesty in Council may from time to time declare any territory to be within or without Burma

Provision as to pardon.

434. Nothing in this Part of this Act shall derogate from the right of His Majesty to grant pardons, reprieves, respites or remissions of punishment.

Persons not to be subjected to disability by reason of race, religion, &c.

435.—(1) No subject of His Majesty domiciled in Burma shall on grounds only of religion, place of birth, descent, colour or any of them be ineligible for office under the Crown in Burma or be prohibited by any law of Burma on any such grounds from carrying on any trade, business or profession in Burma.

(2) Nothing in this section shall affect the operation of any law which—

(*a*) prohibits either absolutely or subject to exceptions the sale or mortgage of agricultural land in any particular area to any person not belonging to some class recognised by the law as being a class of persons engaged in or connected with agriculture in that area; or

(*b*) recognises the existence of some right, privilege or disability attaching to members of a community by virtue of some personal law or customs having the force of law.

Compulsory acquisition of land, &c.

436.—(1) No person in Burma shall be deprived of his property save by authority of law.

(2) The Legislature shall not have power to make ny law authorising the compulsory acquisition for ublic purposes of land belonging to private persons, nless the law provides for the payment of compensation r the property acquired.

(3) No Bill or amendment making provision for the ansference to public ownership of any land or for the xtinguishment or modification of the rights of private ersons therein, including rights or privileges in respect land revenue, shall be introduced or moved in either hamber of the Legislature without the previous sanction the Governor in his discretion.

(4) Nothing in this section shall affect the provisions of any law in force at the date of the passing of this Act.

(5) In this section "*land*" includes immovable property of every kind and any rights in or over such property.

A D 1935

PART XIV —*cont*

Protection of privileges in respect of land revenue

437.—(1) The executive authority of Burma shall not be exercised save on an order of the Governor in the exercise of his individual judgment, so as to derogate from any grant of land or of any right or privilege in respect of land revenue made for services rendered

(2) Nothing in this section affects any remedy for a breach of any condition on which a grant was made

Courts of appeal in revenue matters

438 No member of the Legislature shall be a member of any tribunal having jurisdiction to entertain appeals in revenue matters

Elections may be held in advance of the dates fixed for the commencement of this Part of this Act

439 —(1) His Majesty may by Order in Council to be made at any time after the passing of this Act provide that the first elections of persons to serve as members of the Legislature shall be held in advance on such dates as will enable the Legislature to be fully constituted 15 in accordance with the provisions of this Part of this Act before the date fixed for the commencement thereof

(2) If any such Order is made the Governor shall have authority to take all such steps and to issue to officers subordinate to him all such orders or directions 20 as may appear to him to be necessary or expedient as to secure that the object for which the Order is made is attained and in particular but without prejudice to the generality of the foregoing words—

(*a*) for the preparation of electoral rolls, 25

(*b*) with respect to the nomination of candidates, and

(*c*) with respect to the holding and method of conducting elections,

and it shall be the duty of all officers serving in any capacity under the Crown in Burma to give effect to any 30 such Orders or directions

(3) A person shall not be disqualified for being elected or being a member of a Legislature elected under the foregoing provisions of this section by reason of the fact that he holds an office of profit as a non official 35 member of the Executive Council of the Governor or as a minister in the Province of Burma

(4) A Legislature elected under the foregoing provisions of this section shall be deemed to be as duly constituted as if the relevant provisions of this Act had been 40 in force at the material dates

A D 1935

PART XIV —*cont*

(5) Nothing in this section affects, or shall be construed as narrowing the interpretation of, section thirty-seven of the Interpretation Act, 1889

Continuation of existing laws

440. Notwithstanding the repeal of the Government of India Act, but subject to the provisions of this Part of this Act, all the law in force in Burma immediately before the commencement of this Part of this Act shall continue in force in Burma until altered or repealed or amended by the Legislature or other competent authority

Adaptation of existing laws

441 His Majesty may by Order in Council to be made at any time after the passing of this Act provide that as from such date as may be specified in the Order any law in force in Burma shall until repealed or amended by the Legislature or other competent authority, have effect subject to such adaptations and modifications as appear to His Majesty to be consequential on the separation of India and Burma

In this section the expression "law" does not include an Act of Parliament but includes any ordinance order, byelaw rule or regulation having in Burma the force of law

Temporary financial provisions

442. If it appears to the Governor to be necessary so to do for the purpose of enabling the administration of Burma to be carried on effectively during the first year after the commencement of this Part of this Act, he may with the approval of the Secretary of State declare that any taxes or duties in force immediately before the commencement of this Part of this Act shall not withstanding that they would otherwise expire continue in force for such further period not exceeding twelve months as he may deem necessary unless sooner varied or repealed by Act of the Legislature and authorise, during a period not exceeding twelve months, such expenditure from the revenues of Burma as he may deem necessary

High Commissioner for Burma

443—(1) If the Governor in his discretion thinks fit to direct that there shall be a High Commissioner for Burma in the United Kingdom the Governor, exercising his individual judgment may appoint a

A.D. 1935.
PART XIV
—cont.

person to be High Commissioner and prescribe his salary and conditions of service.

(2) The High Commissioner shall perform on behalf of the Government of Burma and the Railway Board such functions in connection with the business of that Government and Board, and, in particular, such functions in relation to the making of contracts, as the Governor may from time to time direct.

(3) The provisions of chapter IX of this Part of this Act (which relates to the services in Burma) shall apply in relation to appointments to and to persons serving on the staff of the High Commissioner for Burma as if the service of the members of his staff were service rendered in Burma.

No proceedings to lie against Governor or Secretary of State.

444. No proceedings whatsoever shall lie in any court in Burma against the Governor or, subject to the foregoing provisions of this chapter, against the Secretary of State, whether in a personal capacity or otherwise, in respect of anything done or omitted to be done by either of them during his term of office. 5

Procedure as respects proposals for amendment of certain provisions of Act and Orders in Council.

445.—(1) If at any time after the expiration of ten years from the commencement of this Part of this Act the Legislature on motions proposed in each Chamber by a minister on behalf of the council of ministers passes a resolution recommending any such 2 amendment of this Act or of an Order in Council made thereunder as is hereinafter mentioned, and on motions proposed in like manner present to the Governor an address for submission to His Majesty praying that His Majesty may be pleased to communicate the resolution to Parliament, the Secretary of State shall, within 30 six months after the resolution is so communicated cause to be laid before both Houses of Parliament a statement of any action which it may be proposed to take thereon.

The Governor when forwarding any such resolution 35 and address to the Secretary of State shall transmit therewith a statement of his opinion as to the effect which the making of the proposed amendment would have on the interests of any minority and the Secretary of State shall cause such statement to be laid before 40 Parliament.

(2) The amendments referred to in the preceding sub section are—

(a) any amendm [illegible] to the composition [illegible] method of choosing [illegible]

(b) any amendment of the provisions relating to the qualifications entitling persons to vote at elections

(3) His Majesty in Council may at any time, whether or not ten years have elapsed from the commencement of this Part of this Act, and whether or not any such address as is mentioned in this section has been submitted to His Majesty, make in the provisions of this Act any such amendment as is referred to in sub section (2) of this section

Provided that if no such address has been submitted to His Majesty, then before the draft of any order which it is proposed to submit to His Majesty is laid before Parliament, the Secretary of State shall take such steps as His Majesty may direct for ascertaining the views of the Government and the Legislature

Power of His Majesty to amend the Eleventh Schedule

446 His Majesty may, by Order in Council—

(a) direct that the whole or any specified part of any of the areas specified in Part I of the Eleventh Schedule to this Act shall be deemed to be, or be part of, an area specified in Part II of that Schedule,

(b) direct that the whole or any specified part of an area specified in Part II of the said Schedule shall be deemed not to be, or not to be part of, an area specified in that Schedule,

(c) alter, but only by way of rectification of boundaries, any of the areas specified in that Schedule,

(d) on any alteration of the boundaries of Burma or of His Majesty's territories therein declare any territory not previously included in that Schedule to be, or to be part of, an area specified in Part I or in Part II of that Schedule

and any such Order may contain such incidental and consequential provisions as appear to His Majesty to be necessary or proper

A.D. 1935
PART XIV —*cont*

Orders in Council

447.—(1) Subject as hereinafter provided the Secretary of State shall lay before Parliament the draft of any Order which it is proposed to recommend His Majesty to make in Council under any provision of this Part of this Act which expressly authorises the making of such an Order, and no further proceedings shall be taken in relation thereto except in pursuance of an address presented to His Majesty by both Houses of Parliament praying that the Order may be made either in the form of the draft or with such amendments as both Houses of Parliament may have agreed to recommend to His Majesty

Provided that if at any time when Parliament is dissolved or prorogued or when both Houses of Parliament are adjourned for more than fourteen days the Secretary of State is of opinion that on account of urgency an Order in Council should be made under this Part of this Act forthwith it shall not be necessary for a draft of the Order to be laid before Parliament but the Order shall cease to have effect at the expiration of twenty eight days from the date on which the Commons House first sits after the making of the Order unless within that period resolutions approving the making of the Order are passed by both House of Parliament

(2) His Majesty in Council may by a subsequent Order made in accordance with the provisions of the preceding sub section revoke or vary any Order previously made by him in Council under this Part of this Act

Interpretation

448—(1) In this Part of the Act unless the context otherwise requires the following expressions have the meanings hereby respectively assigned to them, that is to say—

borrow includes the raising of money by the grant of annuities and "loan and "debt shall be construed accordingly,

existing Indian or Burman law means any law ordinance, order byelaw rule or regulation (as in force in Burma) passed or made by any legislature authority or person in any territories for the time being comprised in India being a legislature authority or person having power to make such a law

"Local Government" means the local government of Burma within the meaning of the Government of India Act or any Act repealed by that Act in force at the relevant time,

A.D. 1935
PART XIV
—cont

"pension" means a pension whether contributory or not, of any kind whatsoever payable to or in respect of a person in or lately in the service of the Crown in India or Burma, and includes retired pay so payable a gratuity so payable and any sum or sums so payable by way of the return with or without interest of subscriptions to a provident fund,

"pleader" includes advocate,

"public notification" means a notification in the official Gazette of Burma

(2) Any reference in this Part of this Act to Acts of the Legislature shall be construed as including a reference to an Ordinance made by the Governor or a Governor's Act

20 (3) References in this Act to the taking of an oath include references to the making of an affirmation

(4) As respects the period elapsing between the commencement of Part III of this Act and the establishment of the Federation of India, any reference in this 25 Part of this Act to the Federation shall be construed as a reference to British India, the Governor General in Council or the Governor General as the context and the circumstances may require, and any reference to the Governor General shall if the circumstances so require 30 be construed as including a reference to the Governor General in Council

PART XV

COMMENCEMENT, REPEALS, &c

Commencement

449.—(1) Part II of this Act shall come into force 35 on such date as His Majesty may appoint by the Proclamation establishing the Federation and the date so appointed is the date referred to in this Act as the date of the establishment of the Federation

A D 1935 — PART XV —cont

(2) The remainder of this Act shall, subject to any express provision to the contrary, come into force on such date as His Majesty in Council may appoint and the said date is the date referred to in this Act as the commencement of Part III of this Act and referred to in Part XIV of this Act as the commencement of that Part.

(3) Notwithstanding anything in this section, His Majesty in Council may, for the purpose of bringing any Part of this Act into operation, fix an earlier or a later date for the coming into operation, either generally or for particular purposes, of any particular provisions of this Act

Charge of expenses on revenues raised in India or Burma

450 Where under the provisions of this Act any expenditure is charged on, or is to be defrayed out of, the revenues of any of the Governments constituted by this Act or of the Governor General in Council, that expenditure, whether expenditure heretofore charged on or defrayable out of the revenues of India or not, shall be charged and defrayed in accordance with the provisions of this Act

Repeals

451 The Government of India Act shall be repealed and the other Acts mentioned in the Fifteenth Schedule to this Act shall also be repealed to the extent specified in the third column of that Schedule

Provided that without prejudice to any other provisions of this Act and to the provisions of the Interpretation Act, 1889, relating to the effect of repeals, this repeal shall not affect any appointment made under any enactment so repealed to any office, and any such appointment shall have effect as if it were an appointment to the corresponding office under this Act

SCHEDULES.

FIRST SCHEDULE

Sections 5, 18

Composition of the Federal Legislature.

Part I

Representatives of British India

General Qualification for Membership

1 A person shall not be qualified to be chosen as a representative of British India to fill a seat in the Federal Legislature unless he—

(a) is a British subject, or the Ruler or a subject of an Indian State which has acceded to the Federation and

(b) is, in the case of a seat in the Council of State, not less than thirty years of age and in the case of a seat in the Federal Assembly not less than twenty five years of age, and

(c) possesses such, if any, of the other qualifications specified in this Part of this Schedule as may be appropriate in his case

2 Upon the expiration of the term for which he is chosen to serve as a member of the Federal Legislature a person, if otherwise duly qualified, shall be eligible to be chosen to serve for a further term

The Council of State

3 Of the one hundred and fifty six seats in the Council of State to be filled by representatives of British India one hundred and fifty seats shall be allocated to Governors Provinces Chief Commissioners' Provinces and communities in the manner shown in the relevant Table of Seats appended to this Part of this Schedule, and six seats shall be filled by persons chosen by the Governor General in his discretion

4 To each Governor s Province, Chief Commissioner s Province and community specified in the first column of the Table there shall be allotted the number of seats specified in the second column opposite to that Province or community

5 Subject to the provisions of the three next succeeding paragraphs the term of office of a member of the Council of State shall be nine years

Provided that a person chosen to fill a casual vacancy shall be chosen to serve only for the remainder of his predecessor s term of office

A D 1935. 1st Sch —cont.

6 Upon the first constitution of the Council of State p shall be chosen to fill all the seats so allotted as afores Governors Provinces Chief Commissioners Provinces communities but for the purpose of securing that in third year one third of the holders of such seats shall one third of the persons first chosen shall be chosen to serv three years only one third shall be chosen to serve for six only and one third shall be chosen to serve for nine years thereafter in every third year persons shall be chosen to fill nine years the seats then becoming vacant in consequenc the provisions of this paragraph

7 Of the seats allotted to any Governors Province C Commissioners Province or community the numbers spec in the third fourth and fifth columns of the Table respecti shall be seats to be filled upon the first constitution of the Cou by members chosen to serve for three years only by memb chosen to serve for six years only and by members chosen serve for nine years

8 Upon the first constitution of the Council of State t of the persons to be chosen by the Governor General shall chosen to serve for three years only two shall be chosen to ser for six year only and two shall be chosen to serve for ni years

9 In each of the following Provinces that is to say Madra Bombay the United Provinces and Bihar such of the member of the Legislative Council of the Province as are Muhammadan shall be entitled—

(a) upon th first constitution of the Council to choos persons to fill two of the seats allotted to that Province being two seats which under the foregoing provision will by effluxion of time become vacant at differen dates

(b) at any subsequent triennial election when seats allotte to the Province fall to be filled to choose a perso to fill one seat and

( ) on a casual vacancy occurring in a seat theretofor held by a person chosen in accordance with thi paragraph to choose a person to fill that seat

10 Subject to the provisions of the last preceding paragraph persons to fill the seats allotted to a Governors Province shall except in the case of a casual vacancy be chosen according to the principle of proportional representation by means of the single transferable vote—

(i) if the Province has a Legislative Council by such members thereof as are not Anglo Indians Europeans or Indian Christians and

(ii) if the Province has not a Legislative Council by the members of a Provincial Electoral College constituted in accordance with the provisions of the next succeeding paragraph

When a casual vacancy occurs in a seat theretofore held by person chosen in accordance with this paragraph a person to fill the seat shall be chosen by such of the members of the Legislative Council or, as the case may be of the Electoral College as are members of the same community as the person by whom the seat was held

11 The composition of the Provincial Electoral Colleges referred to in the preceding paragraph shall be as shown in the following Table —

Province	General Seats	Sikh Seats	Muhammadan Seats	Total
Punjab	16	11	30	
Central Provinces and Berar	11	—	[illegible]	[illegible]
Assam	21	—	1	[illegible]
North West Frontier Province		1	19	
Orissa	27	—	3	[illegible]
Sind	10	—	18	[illegible]

The members of a Provincial Electoral College shall be chosen by voters possessing such qualifications as may be prescribed and voting in territorial constituencies formed for the purposes of this paragraph being either general Sikh or Muhammadan constituencies

To each such constituency one or more seats in the Electoral College shall be assigned

In a general constituency formed for the purposes of this paragraph no person shall be entitled to vote who is entitled to vote in a Sikh or Muhammadan constituency so formed and in a Sikh or Muhammadan constituency so formed no person shall be entitled to vote who is not a Sikh or Muhammadan as the case may be

12 Persons to fill the seats allotted to Chief Commissioners' Provinces shall be chosen—

(i) in the case of Coorg by the Legislative Council of the Province and

(ii) in other cases in such manner as may be prescribed

13 Persons to fill the seats allotted to the Anglo Indian European and Indian Christian communities shall be chosen

by the members of Electoral Colleges consisting of such Anglo Indians Europeans and Indian Christians as the case may be as are member of the Legislative Council of any Governors Province or of the Legislative Assembly of any Governors Province

The Rules regulating the conduct of elections by the European Electoral College shall be such as to secure that on any occasion where more than one seat falls to be filled by the College no two of the seats to be then filled shall be filled by persons who are normally resident in the same Province

14 A person shall not be qualified to hold a seat in the Council of State unless—

(a) in the case of a seat allotted to a Governors Province he is qualified to hold a seat in the Legislative Council or as the case may be the Provincial Electoral College of that Province

(b) in the case of a seat allotted to a Chief Commissioners Province or a community he possesses such qualifications as may be prescribed

The Federal Assembly

15 The allocation of seats in the Federal Assembly other than seats allotted to Indian States shall be as shown in the relevant Table of Seats appended to this Part of this Schedule

16 To each Governors Province and Chief Commissioners Province specified in the first column of the Table there shall be allotted the number of seats specified in the second column opposite to that Province and of those seats—

(i) the number specified in the third column shall be general seats of which the number specified in the fourth column shall be reserved for members of the scheduled caste

(ii) the numbers specified in the next eight columns shall be the numbers of seats to be filled respectively by persons chosen to represent (a) the Sikh community (b) the Muhammadan community (c) the Anglo Indian community (d) the European community (e) the Indian Christian community (f) the interests of commerce and industry (g) land holders and (h) the interests of labour and

(iii) the number specified in the thirteenth column shall be the number of seats to be filled by women

There shall also be in the Federal Assembly four seats not allotted to any Province of which three shall be seats to be filled by representatives of commerce and industry and one shall be a seat to be filled by a representative of labour

17 Subject to the provisions of the next succeeding paragraph, persons to fill the seats in the Federal Assembly allotted to a Governor's Province as general seats Sikh seats or Muhammadan seats shall be chosen by electorates consisting of such of the members of the Legislative Assembly of the Province as hold therein general seats Sikh seats or Muhammadan seats respectively, voting in the case of a general election in accordance with the principle of proportional representation by means of the single transferable vote

18 The provisions of this paragraph shall have effect with respect to the general seats reserved in any Governors Province for members of the scheduled castes —

For the purposes of a general election of members of the Federal Assembly,—

(*a*) there shall be a primary electorate consisting of all persons who were successful candidates at the primary elections held in accordance with the provisions of the Fifth Schedule to this Act on the occasion of the last general election of members of the Legislative Assembly of the Province for the purpose of selecting candidates for seats reserved for members of the scheduled castes ,

(*b*) the primary electorate so constituted shall choose such number of persons as is equal to four times the number of general seats in the Federal Assembly reserved in the Province for members of the scheduled castes and

(*c*) no person who is not so chosen shall be qualified to be chosen to fill such a seat

Rules made under this Part of this Schedule shall make provision as to the manner in which a casual vacancy occurring in a seat to which this paragraph applies is to be filled

19 For the purpose of choosing persons to fill the women's seats in the Federal Assembly there shall be for British India an Electoral College consisting of such women as are members of the Legislative Assembly of any Governors Province and the person to fill a woman's seat allotted to any particular Province shall be chosen by the members of the College

Rules regulating the conduct of elections by the women's Electoral College shall be such as to secure that of the nine women's seats allotted to Provinces at least two are held by Muhammadans and at least one by an Indian Christian

20 For the purpose of choosing persons to fill the Anglo Indian European and Indian Christian seats in the Federal Assembly there shall be for British India three electoral colleges consisting respectively of such persons as hold an Anglo-Indian a European or an Indian Christian seat in the Legislative Assembly of any

A.D 1935. 1st Sch —cont

Governors Province and the person to fill an Anglo Indian European or Indian Christian seat allotted to any particular Province shall be chosen by the members of the apropriate electoral college

In choosing at a general election the persons to fill the Indian Christian seats allotted to the Province of Madras the Indian Christian electoral college shall vote in accordance with the principle of proportional representation by means of the single transferable vote

21 Persons to fill the seats in the Federal Assembly which are to be filled by representatives of commerce and industry landholders and representatives of labour shall be chosen—

(a) in the case of a seat allotted to a Province which is to be filled by a representative of commerce and industry by such chambers of commerce and similar associations voting in such manner as may be prescribed

(b) in the case of a seat allotted to a Province which is to be filled by a landholder by such persons voting in such territorial constituencies and in such manner as may be prescribed

(c) in the case of a seat allotted to a Province which is to be filled by a representative of labour by such organisations or in such constituencies and in accordance with such manner of voting as may be prescribed

(d) in the case of one of the non provincial seats which are to be filled by representatives of commerce and industry by such Associated Chambers of Commerce in the case of another such seat by such Federated Chambers of Commerce and in the case of the third such seat by such commercial bodies in Northern India voting in each case in such manner as may be prescribed and

(e) in the case of the non provincial seat which is to be filled by a representative of labour by such organisations voting in such manner as may be prescribed

22 Persons to fill the seats in the Federal Assembly allotted to Chief Commissioners Provinces as general seats or Muhammadan seats shall be chosen—

(a) in the case of Coorg by the members of the Legislative Council and

(b) in other cases in such manner as may be prescribed

23 A person shall not be qualified to hold a seat in the Federal Assembly unless—

(a) in the case of a general seat a Sikh seat a Muhammadan seat an Anglo Indian seat a European seat an Indian Christian seat or a woman s seat allotted to a Governor s Province or the Province of Coorg he is qualified to hold a seat of the same class in the Legislative Assembly, or

in the case of Coorg the Legislative Council of that Province

(ii) in the case of any other seat he possesses such qualifications as may be prescribed

General

24 In the foregoing provisions of this Schedule the following expressions have the meanings hereby assigned to them, that is to say —

'a European' means a British subject of European descent in the male line who is resident in British India and—

(a) who was born or has a domicile in the United Kingdom a British possession or an Indian State or

(b) whose father was so born or has or had up to the date of the birth of the person in question such a domicile

'an Anglo Indian' does not include a European but subject as aforesaid means a British subject who is resident in British India and—

(a) who is of European descent in the male line or

(b) who is of mixed Asiatic and non Asiatic descent and whose father grandfather or more remote ancestor in the male line was born in the continent of Europe Canada Newfoundland New Zealand Australia the Union of South Africa or the United States of America

'the scheduled castes' means such castes races and tribes, corresponding to the classes of persons formerly known as 'the depressed classes' as His Majesty in Council may specify and

'prescribed' means prescribed by His Majesty in Council or so far as regards any matter which under this Act the Federal Legislature or the Governor General are competent to regulate prescribed by an Act of that Legislature or by a rule made under the next succeeding paragraph

25 In so far as provision with respect to any matter is not made by this Act or by His Majesty in Council or after the constitution of the Federal Legislature by Act of that Legislature (where the matter is one with respect to which that Legislature 40 is competent to make laws) the Governor General exercising his individual judgment may make rules for carrying into effect the foregoing provisions of this part of this Schedule and for securing the due constitution of the Council of State and the Federal Assembly and in particular but without prejudice 45 to the generality of the foregoing words with respect to

(i) the notification of vacancies including casual vacancies and the proceedings to be taken for filling vacancies

A D 1935

1st Sch. —*cont*

(ii) the nomination of candidates,

(iii)]the conduct of elections, including the application to elections of the principle of proportional representation by means of the single transferable vote, and the rules to regulate elections where certain of the seats to be filled are to be filled by persons to be chosen to serve for different terms, or are reserved for members of the scheduled castes ,

(iv) the expenses of candidates at elections ,

(v) corrupt practices and other offences at or in connection with elections ,

(vi) the decision of doubts and disputes arising out of or in connection with the choice of persons to fill seats in the Council of State or the Federal Assembly , and

(vii) the manner in which rules are to be carried into effect.]

TABLE OF SEATS

The Council of State

Representatives of British India

1 Province or Community	2 Total of Seats	Number of Seats to be filled originally		
		3 For three years only	4 For six years only	5 For nine years
Madras	20	—	10	10
Bombay	16	8	—	8
Bengal	20	10	—	10
United Provinces	20	10	10	—
Punjab	16	8	8	—
Bihar	16	—	8	8
Central Provinces and Berar	8	—	8	—
Assam	5	—	5	—
North West Frontier Province	5	—	—	5
Orissa	5	5	—	—
Sind	5	5	—	—
British Baluchistan	1	—	—	1
Delhi	1	—	—	1
Ajmer Merwara	1	—	—	1
Coorg	1	—	—	1
Anglo Indians	1	—	—	1
Europeans	7	3	1	3
Indian Christians	2	1	—	1
Totals	150	50	50	50

There shall also be six seats not allotted to any province or community but to be filled by persons chosen by the Governor General in his discretion

A.D. 1935.

1st Sch.—*cont.*

The Federal Assembly

Representatives of British India

1	2	3	4	5	6	7	8	9	10	11	12	13
		General Seats—										
Province	Total Seats	Total of general Seats	General seats reserved for Scheduled castes	Sikh Seats	Muhammadan Seats	Anglo-Indian Seats	European Seats	Indian Christian Seats	Seats for representatives of commerce and industry	Landholders Seats	Seats for representatives of labour	Women's Seats
Madras	37	19	4	—	8	1	1	2	2	1	1	2
Bombay	30	13	2	—	6	1	1	1	3	1	2	2
Bengal	37	10	3	—	17	1	1	1	3	1	2	1
United Provinces	37	19	3	—	12	1	1	1	—	1	1	1
Punjab	30	6	1	6	14	—	1	1	—	1	—	1
Bihar	30	16	2	—	9	—	1	1	—	1	1	1
Central Provinces and Berar	15	9	2	—	3	—	—	—	—	1	1	1
Assam	10	4	1	—	3	—	1	1	—	—	1	—
North West Frontier Province	5	1	—	—	4	—	—	—	—	—	—	—
Orissa	5	4	1	—	1	—	—	—	—	—	—	—
Sind	5	1	—	—	3	—	1	—	—	—	—	—
British Baluchistan	1	—	—	—	1	—	—	—	—	—	—	—
Delhi	2	1	—	—	1	—	—	—	—	—	—	—
Ajmer Merwara	1	1	—	—	—	—	—	—	—	—	—	—
Coorg	1	1	—	—	—	—	—	—	—	—	—	—
Non-Provincial Seats	4	—	—	—	—	—	—	—	3	—	1	—
Totals	250	105	19	6	82	4	8	8	11	7	10	9

A.D 1935

1st Sch —*cont*

PART II

REPRESENTATIVES OF INDIAN STATES

1 The allocation to Indian States of seats in the Federal Legislature shall be as shown in the Table appended to this Part of this Schedule hereinafter referred to as the Table of Seats and persons to represent Indian States in that Legislature shall be chosen and appointed in accordance with the provision hereinafter contained

2 In the case of the Council of State there shall be allotted to each State or as the case may be to each group of States specified in the first column of the Table of Seats the number of seats specified in the second column of the said Table opposite to that State or to that group of States

3 In the case of the Federal Assembly there shall be allotted to each State or as the case may be to each group of States specified in the third column of the Table of Seats the number of seats specified in the fourth column of the said Table opposite to that State or to that group of States

4 A person shall not be qualified to be appointed under this Part of this Schedule to fill a seat in either Chamber of the Federal Legislature unless he —

(i) is a British subject or the Ruler or a subject of an Indian State which has acceded to the Federation and

(ii) is in the case of a seat in the Council of State not less than thirty years of age and in the case of a seat in the Federal Assembly not less than twenty five years of age

Provided that—

(*a*) the Governor General may in his discretion declare as respects any State the Ruler of which at the date of the establishment of the Federation was by reason of his minority not exercising ruling powers that sub paragraph (i) of this paragraph shall not apply to any named subject or to subjects generally of that State until that State comes under the rule of a Ruler who is of an age to exercise ruling powers, and

(*b*) sub paragraph (ii) of this paragraph shall not apply to a Ruler who is exercising ruling powers

5 Upon the expiration of the term for which he is appointed to serve as a member of the Federal Legislature a person if otherwise duly qualified shall be eligible to be appointed to serve for a further term

6 Subject to the special provisions hereinafter contained with respect to the appointment of persons to represent certain

as and group of States comprised in Divisions XVI and ... of the Table of Seats —

(i) the Rulers of States constituting a group of States to which a seat in the Council of State is allotted shall in rotation appoint a person to fill that seat and

(ii) the Rulers of the States constituting a group of States to which a seat in the Federal Assembly is allotted shall appoint jointly a person to fill that seat

Provided that the Rulers of two or more States entitled to appoint in rotation a person to fill a seat in the Council of State allotted to a group of States may by agreement and with the approval of the Governor General in his discretion appoint jointly a person to fill that seat

The period for which a person shall be appointed to fill a seat shall be—

(i) in the case of a person appointed to fill a seat in the Council of State

(a) by the Ruler of a State entitled to separate representation nine years

(b) jointly by the Rulers of all the States in a group which have acceded to the Federation three years,

(c) by the Ruler of a State appointing in rotation one year subject however to the special provisions of the next succeeding paragraph with respect to certain States therein mentioned

(d) jointly by Rulers of some only of the States in a group which have acceded to the Federation a period equal to the aggregate of the periods for which each of them might in rotation have appointed a person to hold that seat or three years whichever may be the shorter period

(e) in any other manner three years and

(ii) in the case of a person appointed to fill a seat in the Federal Assembly until the dissolution of the Assembly

Provided that—

(i) a person appointed to fill a seat upon the occurrence of a casual vacancy shall be appointed to fill that seat for the remainder of the period for which his predecessor was appointed and

(ii) in the case of first appointments to fill seats in the Council of State the Governor General in his discretion shall make by order provision for securing that approximately one third of the persons appointed to fill by Rulers entitled to separate representation shall be appointed to fill seats for three years only approximately one third to fill seats for six years only and approximately one third to fill seats for nine years

Item

A.D 1935
1st Sch
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8 The Ruler of a State mentioned in this paragraph when appointing in rotation a person to fill a seat in the Council of State shall notwithstanding anything in the preceding paragraph be entitled to appoint that person to fill the seat—

(a) in the case of the Ruler of Partabgarh of Jhalawar, of Panna and of Mayurbhanj for two years and

(b) in the case of the Ruler of Pudukkottai for three years

9 Subject as hereinafter provided the Rulers of two or more States forming a group to which one seat in either Chamber of the Federal Legislature is allotted shall, in choosing a person to be appointed by them jointly to fill that seat each have one vote and in the case of an equality of votes the choice shall be determined by lot or otherwise in such other manner as may be prescribed

Provided that in choosing a person to be so appointed the Ruler of a State mentioned in subparagraph (a) of the preceding paragraph shall be entitled to two votes and the Ruler of the State mentioned in subparagraph (b) of that paragraph shall be entitled to three votes

10 A seat in either Chamber allotted to a single State shall remain unfilled until the Ruler of that State has acceded to the Federation and a seat in either Chamber which is the only seat therein allotted to a group of States shall remain unfilled until the Rulers of at least one half of those States have so acceded but subject as hereinafter provided, so long as one tenth of the seats in either Chamber allotted either to single States or to groups of States remain unfilled by reason of the non accession of a State or States whether such non accession be due to the minority of a Ruler or to any other cause the persons appointed by the Rulers of States to fill seats in that Chamber may from time to time in the prescribed manner appoint persons not exceeding one half of the number of seats so unfilled to be additional members of that Chamber

Provided that the right to appoint such additional members shall not be exercised after the expiration of twenty years from the establishment of the Federation

A person appointed under this paragraph as an additional member of either Chamber shall be appointed to fill his seat for a period of one year only

11 Persons to fill the seats in the Federal Assembly allotted to any group of States mentioned in Division XVI of the Table of Seats as entitled to appoint persons to fill three such seats shall be appointed in the prescribed manner by the Rulers of such of the States in the group as have acceded to the Federation

Provided that—

(a) until the Rulers of two of those States have so acceded all the three seats shall remain unfilled and

(b) until the Rulers of four of those States have so acceded, two of the three seats shall remain unfilled and

(c) until the Rulers of six of those States have so acceded, one of the three seats shall remain unfilled

Seats in the Federal Assembly remaining unfilled by reason of the provisions of this paragraph shall be treated as seats remaining unfilled for the purposes of the last preceding paragraph.

12. The provisions of this paragraph shall apply with respect to the two seats in the Council of State and the five seats in the Federal Assembly allotted to the States comprised in Division XVII of the Table of Seats —

(a) the States in question are such States being States which on the first day [illegible] thirty five were inclu[illegible] Agency, the Gujarat [illegible] Agency th Eastern [illegible] Agency or the Rajputana Agency or were in political relations with the Government of the Punjab as may be enumerated in rules made by the Governor General in his discretion

(b) the Governor General shall in the rules so made by him divide the said States into five groups and of the five seats in the Federal Assembly allotted to those States one shall be deemed to be allotted to each of the groups

(c) a seat in the Federal Assembly allotted to one of the said groups shall remain unfilled until the Rulers of at least one half of the States in the group have acceded to the Federation but save as aforesaid a person to fill such a seat shall be appointed in the prescribed manner by the Rulers of such of the States in the group as have acceded to the Federation,

(d) persons to fill the two seats in the Council of State allotted to the States comprised in the said Division shall be appointed in the prescribed manner by the persons appointed under the preceding [illegible] paragraph to fill seats in the Federal Assembly

Provided that so long as three of th[illegible] seat[illegible] in the Federal Assembly remain unfilled on[illegible] of th[illegible] two seats in the Council of State shall also remain [illegible],

(e) seats in the Federal Assembly or Council of [illegible] remaining unfilled by reason of the provi[illegible] of th[illegible] paragraph shall be treated as seat[illegible] remai[illegible] for the purposes of the last but one preceding p[illegible]

1 States and Groups of States	2 Number of seats in Council of State	3 States and Groups of States	4 Number of seats in the Federal Assembly	5 Populati
		Division VI		
Kalat	2	Kalat	1	342
		Division VII		
Sikkim	1	Sikkim	—	109
		Division VIII		
1 Rampur	1	1 Rampur	1	465
2 Benares	1	2 Benares	1	391
		Division IX		
1 Travancore	2	1 Travancore	5	5 095
2 Cochin	2	2 Cochin	1	1 205
3 Pudukkottai	} 1	3 Pudukkottai	} 1	400
Banganapalle		Banganapalle		39
Sandur		Sandur		13
		Division X		
1 Udaipur	2	1 Udaipur	2	1 566
2 Jaipur	2	2 Jaipur	3	2 631
3 Jodhpur	2	3 Jodhpur	2	2 125
4 Bikaner	-	4 Bikaner	1	936
5 Alwar	1	5 Alwar	1	749
6 Kotah	1	6 Kotah	1	685
7 Bharatpur	1	7 Bharatpur	1	486
8 Tonk	1	8 Tonk	1	317
9 Dholpur	1	9 Dholpur	} 1	254
10 Karauli	1	Karauli		140
11 Bundi	1	10 Bundi	} 1	216
12 Sirohi	1	Sirohi		216
13 Dungarpur	1	11 Dungarpur	} 1	227
14 Banswara	1	Banswara		260
15 Partabgarh	} 1	12 Partabgarh	} 1	76
Jhalawar		Jhalawar		107
Shahpura		Shahpura		54
16 Jaisalmer	}	13 Jaisalmer	} 1	76
Kishengarh		Kishengarh		85

1 States and Groups of States	2 Number of seats in Council of State	3 States and Groups of States	4 Number of seats in the Federal Assembly	5 Population
		DIVISION XI		
1 Indore	2	1 Indore	2	1,325 089
2 Bhopal	2	2 Bhopal	1	729 955
3 Rewa	2	3 Rewa	2	1 587 445
4 Datia	1	4 Datia	1	158 834
5 Orchha	1	Orchha		314 661
6 Dhar	1	5 Dhar	1	243 430
7 Dewas (Senior)	1	Dewas (Senior)		83 321
Dewas (Junior)		Dewas (Junior)		70 513
8 Jaora		6 Jaora	1	100 166
Ratlam		Ratlam		107 321
9 Panna	1	7 Panna	1	212 130
Samthar		Samthar		33 307
Ajaigarh		Ajaigarh		85 897
10 Bijawar	1	8 Bijawar	1	115 852
Charkhari		Charkhari		120 351
Chhatarpur		Chhatarpur		161 267
11 Baoni	1	9 Baoni	1	19 132
Nagod		Nagod		74 589
Maihar		Maihar		68 991
Baraundha		Baraundha		16 071
12 Barwani	1	10 Barwani	1	141 110
Ali Rajpur		Ali Rajpur		101 963
13 Jhabua	1	11 Jhabua	1	145 522
Sailana		Sailana		35 223
Sitamau		Sitamau		28 422
14 Rajgarh	1	12 Rajgarh	1	131 891
Narsingarh		Narsingarh		113 873
Khilchipur		Khilchipur		45 583
		DIVISION XII		
Cutch	1	1 Cutch	1	514 307
Idar	1	2 Idar	1	262 660
Nawanagar	1	3 Nawanagar	1	409 192
Bhavnagar	1	4 Bhavnagar	1	500 274
Junagadh	1	5 Junagadh	1	545 152
Rajpipla	1	6 Rajpipla	1	206 114
Palanpur		Palanpur		264 179
Dhrangadhra	1	7 Dhrangadhra	1	88 961
Gondal		Gondal		205 846
Porbandar	1	8 Porbandar	1	115 673
Morvi		Morvi		113 023

1 States and Groups of States	2 Number of seats in Council of State	3 States and Groups of States	4 Number of seats in the Federal Assembly	Population
		DIVISION XII—*cont*		
9 Radhanpur	1	9 Radhanpur	1	70
Wankaner		Wankaner		44
Palitana		Palitana		62
10 Cambay	1	10 Cambay	1	57
Dharampur		Dharampur		112
Balasinor		Balasinor		52
11 Baria	1	11 Baria	1	159
Chhota Udepur		Chhota Udepur		144
Sant		Sant		83
Lunawada		Lunawada		95
12 Bansda	1	12 Bansda	1	48
Sachin		Sachin		22
Jawhar		Jawhar		57
Danta		Danta		26
13 Dhrol	1	Dhrol		27
Limbdi		Limbdi		40
Wadhwan		Wadhwan		42
Rajkot		Rajkot		7
		DIVISION XIII		
1 Kolhapur	2	1 Kolhapur	1	957
2 Sangli	1	2 Sangli	1	258
Savantvadi		Savantvadi	1	230
3 Janjira	1	3 Janjira		110
Mudhol		Mudhol		62
Bhor		Bhor		141
4 Jamkhandi	1	4 Jamkhandi	1	114
Miraj (Senior)		Miraj (Senior)		93
Miraj (Junior)		Miraj (Junior)		40
Kurundwad (Senior)		Kurundwad (Senior)		44
Kurundwad (Junior)		Kurundwad (Junior)		3
5 Akalkot	1	5 Akalkot	1	9
Phaltan		Phaltan		58
Jath		Jath		91
Aundh		Aundh		7
Ramdurg		Ramdurg		3

1 States and Groups of States	2 Number of seats in Council of State	3 States and Groups of States	4 Number of seats in the Federal Assembly	5 Population
		DIVISION XIV		
1 Patiala	2	1 Patiala	2	1 625 520
2 Bahawalpur	2	2 Bahawalpur	1	984 612
3 Khairpur	1	3 Khairpur	1	227 183
4 Kapurthala	1	4 Kapurthala	1	316 757
5 Jind	1	5 Jind	1	324 676
6 Nabha	1	6 Nabha	1	287 574
		7 Tehri Garhwal	1	349 573
7 Mandi		8 Mandi		207 465
Bilaspur	1	Bilaspur	1	100 994
Suket		Suket		58 408
8 Tehri Garhwal				
Sirmur	1	9 Sirmur	1	148 568
Chamba		Chamba		146 870
9 Faridkot		10 Faridkot		164 364
Malerkotla	1	Malerkotla	1	83 072
Loharu		Loharu		23 338
		DIVISION XV		
1 Cooch Behar	1	1 Cooch Behar	1	590 886
		2 Tripura	1	382 450
2 Tripura	1	3 Manipur	1	445 606
Manipur				
		DIVISION XVI		
1 Mayurbhanj	1	1 Mayurbhanj	1	889 603
Sonepur		2 Sonepur	1	237 920
2 Patna	1	3 Patna	1	566 924
Kalahandi		4 Kalahandi	1	513 716
3 Keonjhar		5 Keonjhar	1	460 609
Dhenkanal		6 Gangpur	1	356 674
Nayagarh	1	7 Bastar	1	524 721
Talcher		8 Surguja	1	501 939
Nilgiri				

1 States and Groups of States	2 Number of seats in Council of State	3 States and Groups of States	4 Number of seats in the Federal Assembly.	5 Population
		Division XVI—cont.		
		9 Dhenkanal	3	284,326
		Nayagarh		142,406
4 Gangpur	1	Seraikela		143 525
Bamra		Baud		135,248
Seraikela		Talcher		69,702
Baud		Bonai		80,186
Bonai		Nilgiri		68,594
5 Bastar	1	Bamra		151,047
Surguja		10 Raigarh	3	277,569
Raigarh		Khairagarh		157,400
Nandgaon		Jashpur		193,698
6 Khairagarh	1	Kanker		136,101
Jashpur		Sarangarh		128,967
Kanker		Korea		90,886
Korea		Nandgaon		182,38[illegible]
Sarangarh				
		Division XVII		
States not mentioned in any of the preceding Divisions, but described in paragraph 12 of this Part of this Schedule	2	States not mentioned in any of the preceding Divisions, but described in paragraph 12 of this Part of this Schedule	5	2,852,1[illegible]
		Total population of the States in this Table :		78,8[illegible]

SECOND SCHEDULE

Provisions of this Act the amendment whereof is not to affect the validity of the Instrument of Accession of a State

Section 6

5 Part I, in so far as it relates to the Commander in Chief

Part II, chapter II, save with respect to the exercise by the Governor General on behalf of His Majesty of the executive authority of
10 the Federation and the definition of the functions of the Governor General, the executive authority of the Federation, the functions of the council of ministers, and the choosing and summoning of
15 ministers and their tenure of office, the functions of the Governor General with respect to external affairs and defence, the special responsibilities of the Governor General relating to the peace or
20 tranquillity of India or any part thereof, the financial stability and credit of the Federal Government, the rights of Indian States, and the discharge of his functions by or under the Act in his
25 discretion or in the exercise of his individual judgment, the provisions relating to His Majesty's Instrument of Instructions to the Governor General, the superintendence of the Secretary of
30 State, and the making of rules by the Governor General for the transaction of, and the securing of transmission to him of information with respect to, the business of the Federal Government

35 " chapter III, save with respect to the number of the representatives of British India and of the Indian States in the Council of State and the Federal Assembly and the manner in which they are to be chosen,
40 the disqualifications for membership of the Council of State and of the Federal Assembly in relation to the representatives of the State, the procedure for the introduction and passing
45 of Bills, joint sittings of the two Chambers, the assent to Bills, or th

A D 1935
2nd Sch
—*cont*

Part II, chapter III, —*cont*		withholding assent from Bills by the Governor General the reservation of Bills for the signification of His Majesty's pleasure the annual financial statement the charging on the revenues of the Federation of the salaries, allowances and pensions payable to or in respect of judges of the Federal Court, of expenditure for the purpose of the discharge by the Governor General of his functions with respect to external affairs defence and the administration of any territory in the direction and control of which he is required to act in his discretion and of the sums payable to His Majesty in respect of the expenses incurred in discharging the functions of the Crown in its relations with Indian States the procedure with respect to estimates and demands for grants, supplementary financial statements the making of rules by the Governor General for prohibiting the discussion or the asking of questions on any matter connected with any Indian State, the making of rules by the Governor General as to the procedure with respect to joint sittings of and communications between, the two Chambers
,,	chapter IV,	save with respect to the power of the Governor General to promulgate ordinances in his discretion or in the exercise of his individual judgment or to enact Governor General's Acts
Part III	chapter I	The whole chapter
,,	chapter II,	save with respect to the special responsibility of the Governor relating to the rights of Indian States and the superintendence of the Governor General in relation thereto
,,	chapter III,	save with respect to the making of rules by the Governor for prohibiting the discussion of, or the asking of, questions on any matter connected with any Indian State
,,	chapter IV	The whole chapter
,,	chapter V	,,
,,	chapter VI	,,

A.D. 1935.
2nd Sch.
—*cont.*

Part II, chapter III, —*cont.*	withholding assent from Bills by the Governor General, the reservation of Bills for the signification of His Majesty's pleasure, the annual financial statement, the charging on the revenues of the Federation of the salaries, allowances and pensions payable to or in respect of judges of the Federal Court, of expenditure for the purpose of the discharge by the Governor General of his functions with respect to external affairs, defence, and the administration of any territory in the direction and control of which he is required to act in his discretion and of the sums payable to His Majesty in respect of the expenses incurred in discharging the functions of the Crown in its relations with Indian States, the procedure with respect to estimates and demands for grants, supplementary financial statements, the making of rules by the Governor General for prohibiting the discussion or the asking of questions on any matter connected with any Indian State, the making of rules by the Governor General as to the procedure with respect to joint sittings of and communications between, the two Chambers.
„ chapter IV,	save with respect to the power of the Governor General to promulgate ordinances in his discretion or in the exercise of his individual judgment, or to enact Governor General's Acts.
Part III, chapter I	The whole chapter.
chapter II,	save with respect to the special responsibility of the Governor relating to the rights of Indian States and the superintendence of the Governor General in relation thereto.
„ chapter III,	save with respect to the making of rules by the Governor for prohibiting the discussion of, or the asking of, questions on any matter connected with any Indian State.
„ chapter IV	The whole chapter.
„ chapter V	„
„ chapter VI	„

Part IV	The whole Part
Part V, chapter I	save with respect to the power of the Federal Legislature to make laws extending to a State or the subjects thereof, the power of the Governor General to empower either the Federal Legislature or Provincial Legislature to enact a law with respect to any matter not enumerated in any of the Lists in the Seventh Schedule to this Act the provisions of the chapter relating to inconsistency between a Federal law and a State law
„ chapter II	save with respect to the previous sanction of the Governor General to the introduction or moving of any Bill or amendment affecting matters reserved to the discretion of the Governor General in relation to defence or external affairs the power of Parliament to legislate for British India or any part thereof or the restrictions on the power of the Federal Legislature and of Provincial Legislatures to make laws on certain matters
chapter III	The whole chapter
Part VI	save in so far as the provisions of that Part relate to Indian States
Part VII ,chapter I,	in so far as it relates to Burma
„ chapter II	save with respect to loans and guarantees to Federated States
„ chapter III	The whole chapter
Part VIII,	save with respect to the constitution and functions of the Federal Railway Authority, the conduct of business between the Authority and the Federal Government and the determination of questions arising between the Authority and the Ruler of a Federated State
Part IX, chapter I,	in so far as it relates to appeals to the Federal Court from High Courts in British India the power of the Governor General to refer questions of law to the Federal Court, the power of the Federal Legislature to confer further powers upon the Federal Court for the purpose of enabling it more effectively to exercise the powers conferred upon it by this Act

A.D. 1935.
2ND SCH
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Part IX chapter II	The whole chapter.
Part X	The whole Part
Part XI	The whole Part.
Part XII,	save with respect to resolutions of the Federal Legislature or any Provincial Legislature recommending amendments of this Act or Orders in Council made thereunder.
Part XIII	The whole Part
Part XIV	„
First Schedule	The whole Schedule, except Part II thereof.
Third Schedule	The whole Schedule
Fourth Schedule,	save with respect to the oath or affirmation to be taken or made by the Ruler or subject of an Indian State
Fifth Schedule	The whole Schedule
Sixth Schedule	„
Seventh Schedule	Any entry in the Legislative Lists which has not been accepted by the State as a Federal subject
Eighth Schedule	The whole Schedule
Ninth Schedule	„
Tenth Schedule	„
Eleventh Schedule	„
Twelfth Schedule	„
Thirteenth Schedule	„
Fourteenth Schedule	„

THIRD SCHEDULE

A.D. 1935

Provisions as to Governor-General and Governors of Provinces

Sections 7, 48.

1. There shall be paid to the Governor-General and to the Governors of the Provinces the following annual salaries, that is to say:—

Office	Salary
The Governor-General	250 800 rupees
The Governor of Madras The Governor of Bombay The Governor of Bengal	120 000 rupees
The Governor of the United Provinces The Governor of the Punjab The Governor of Bihar	100 000 rupees
The Governor of the Central Provinces and Berar	72 000 rupees
The Governor of Assam The Governor of the North-West Frontier Province The Governor of Orissa The Governor of Sind	66 000 rupees

2. There shall be paid to the Governor-General and to the Governors such allowances for expenses in respect of equipment and travelling upon appointment and such other allowances as may from time to time be fixed by His Majesty in Council, and such provision shall be made for enabling the Governor-General and the Governors to discharge conveniently and with dignity the duties of their offices as may be determined by His Majesty in Council.

3. While the Governor-General or a Governor is absent on leave he shall in lieu of his salary be entitled out of the revenues of the Federation or, as the case may be, the Province to such leave allowance as may be fixed by His Majesty in Council.

4. While any person appointed by His Majesty to act as Governor-General or as a Governor is so acting he shall be entitled to receive the same salary and, save as may be otherwise provided by His Majesty in Council, the same allowances as the Governor-General or that Governor.

5. Any sums required to give effect to the provisions of this Schedule shall in the case of the Governor-General or a person acting as such be paid out of and charged on the revenues of the Federation and in the case of a Governor or a person acting as such be paid out of and charged on the revenues of the Province.

A.D. 1935.

FOURTH SCHEDULE

Sections 24, 67, 190, 210.

FORMS OF OATHS OR AFFIRMATIONS

1

Form of oath or affirmation to be taken or made by a member of a Legislature who is a British subject:—

"I, A.B., having been elected [*or* nominated *or* appointed] a member of this Council [*or* Assembly], do solemnly swear [*or* affirm] that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

2

Form of oath or affirmation to be taken or made by a member of a Legislature who is the Ruler of an Indian State:—

"I, A.B., having been elected [*or* nominated *or* appointed] a member of this Council [*or* Assembly], do solemnly swear [*or* affirm] that I will be faithful and bear true allegiance in my capacity as Member of this Council [*or* Assembly] to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

3

Form of oath or affirmation to be taken or made by a member of a Legislature who is a subject of the Ruler of an Indian State:—

"I, A.B., having been elected [*or* nominated *or* appointed] a member of this Council [*or* Assembly], do solemnly swear [*or* affirm] that, saving the faith and allegiance which I owe to C.D., his heirs and successors, I will be faithful and bear true allegiance in my capacity as Member of this Council [*or* Assembly] to His Majesty the King, Emperor of India, His heirs and successors, and that I will faithfully discharge the duty upon which I am about to enter."

4

Form of judicial oath or affirmation to be taken or made by a British subject:—

"I, A.B., having been appointed Chief Justice [*or* a judge] of the Court do solemnly swear [*or* affirm] that I will be faithful and bear true allegiance to His Majesty the King, Emperor of India, his heirs and

successors, and that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment.

A.D. 1935.
4th Sch.
—cont.

Form of judicial oath or affirmation to be taken or made by a subject of the Ruler of an Indian State:—

"I, A.B., having been appointed Chief Justice [or a judge] of the .... Court do solemnly swear [or affirm] that saving the faith and allegiance which I owe to C.D., his heirs and successors, I will be faithful and bear true allegiance in my judicial capacity to His Majesty the King, Emperor of India, his heirs and successors, and that I will faithfully perform the duties of my office to the best of my ability, knowledge and judgment."

FIFTH SCHEDULE.

Section 61.

Composition of Provincial Legislatures.

General Qualification for Membership.

1. A person shall not be qualified to be chosen to fill a seat in a Provincial Legislature unless he—

(a) is a British subject or the Ruler or a subject of an Indian State which has acceded to the Federation; and

(b) is, in the case of a seat in a Legislative Assembly, not less than twenty-five years of age, and in the case of a seat in a Legislative Council, not less than thirty years of age; and

(c) possesses such, if any, of the other qualifications specified in this Schedule as may be appropriate in his case.

2. Upon the expiration of the term for which he is chosen to serve as a member of a Provincial Legislature a person, if otherwise duly qualified, shall be eligible to be chosen to serve for a further term.

Legislative Assemblies.

3. The allocation of seats in Provincial Legislative Assemblies shall be as shown in the relevant Table of Seats appended to this Schedule.

A D 1935
5TH SCH.
—*cont*

4 In the Legislative Assembly of each Province specified in the first column of the Table of Seats there shall be the number of seats specified in the second column opposite to that Province and of those seats—

(i) the number specified in the third column shall be general seats of which the number specified in the fourth column shall be reserved for members of the scheduled castes and in the case of Bombay, seven shall be reserved for Marathas , 5

(ii) the numbers specified in the next ten columns shall be the numbers of seats to be filled by persons chosen to represent respectively—(*a*) backward areas and backward tribes (*b*) the Sikh community , (*c*) the Muhammadan community , (*d*) the Anglo Indian community , (*e*) the European community , (*f*) the Indian Christian community (*g*) the interests of commerce industry mining and planting (*h*) landholders , (*i*) universities and (*j*) the interests of labour and 10 15

(iii) the numbers specified in the last five columns shall be the numbers of seats (being either general seats Sikh seats Muhammadan seats Anglo Indian seats or Indian Christian seats) to be filled by women 20

In the Punjab one of the landholders seats shall be a seat to be filled by a Tumandar

5 A Province exclusive of any portion thereof which His Majesty in Council may deem unsuitable for inclusion in any constituency or in any constituency of any particular class shall be divided into territorial constituencies— 25

(i) for the election of persons to fill the general seats ,

(ii) for the election of persons to fill the Sikh seats if any 30

(iii) for the election of persons to fill the Muhammadan seats

(iv) for the election of persons to fill the Anglo Indian seats if any 35

(v) for the election of persons to fill the European seats, if any

(vi) for the election of persons to fill the Indian Christian seats if any

(vii) for the election of persons to fill the landholders seats if any 40

In the case of each such class of constituency as aforesaid the total number of seats available shall be distributed between the constituencies by the assignment of one or more of those seats to each constituency 45

6 The required number of general seats to be reserved for members of the scheduled castes and in the Province of Bombay for Marathas shall be reserved by reserving for members of those castes or, as the case may be for Marathas one or more 5 seats in each of so many of the general territorial constituencies as may be necessary, so, however, that in each such constituency there shall be at least one unreserved seat

7 In a province in which any general seats are reserved for members of the scheduled castes, all members of those castes who 10 are qualified voters in a constituency in which any seats is so reserved shall at a primary election elect four candidates for each seat so reserved, and no person not so elected as a candidate shall be qualified to hold in that constituency a seat so reserved

8 The persons to fill the seats specified in columns fifteen 15 to nineteen of the Table of Seats as seats to be filled by women shall be chosen in territorial constituencies, which shall be either—

(a) constituencies formed for other purposes, or

(b) special constituencies formed for the purpose of electing women members

20 9 At an election in a territorial constituency (whether the seat to be filled is a woman's seat or not)—

(i) if the constituency is a general one, persons entitled to vote in a Sikh constituency, a Muhammadan constituency, an Anglo Indian constituency, a Euro-25 pean constituency, or an Indian Christian constituency shall not be entitled to vote, but save as aforesaid every voter on the electoral roll of the constituency shall be entitled to vote; and

(ii) if [illegible]

30

person shall be entitled to vote who is not, as the case may be, a Sikh, a Muhammadan, an Anglo-Indian, a European or an Indian Christian

35 Provided that in Assam at an election in a general constituency to fill the general seat reserved for women every woman on the electoral roll of the constituency shall be entitled to vote, notwithstanding that she is also entitled to vote in a communal constituency.

40 10 In a Province in which any seats are to be filled by representatives of backward areas or backward tribes, representatives of commerce, industry, mining and planting, representatives of universities or representatives of labour, persons to fill those seats shall be chosen in such manner as may be 45 prescribed

A D 1935

5TH SCH —*cont*

11 In the Punjab the landholders seat to be filled by a Tumandar shall be assigned to such constituency as may be prescribed

12 A person shall not be qualified to hold a seat in the Legislative Assembly of a Province unless—

(*a*) in the case of a seat to be filled by a woman by a representative of commerce industry, mining and planting, by a representative of universities or by a representative of labour, he possesses such qualifications as may be prescribed and 5

(*b*) in the case of any other seat, he is entitled to vote in the choice of a member to fill that seat or any other seat of a similar class in that Province 10

Legislative Councils

13 The allocation of seats in the Legislative Councils of Provinces having such Councils shall be as shown in the relevant Table of Seats appended to this Schedule 15

14 In the Legislative Council of each Province specified in the first column of the Table of Seats there shall be the number of seats specified in the second column opposite to that Province, and of those seats— 20

(*a*) the number specified in the third column shall be general seats

(*b*) the numbers specified in the fourth and fifth and sixth columns shall be seats to be filled by persons chosen to represent respectively the Muhammadan community, the European community and the Indian Christian community 25

(*c*) the number specified in the seventh column shall be seats to be filled by persons elected by the members of the Legislative Assembly of the Province in accordance with the system of proportional representation by means of the single transferable vote and 30

(*d*) the number specified in the eighth column shall be seats to be filled by persons (who shall not be persons holding office under the Crown) chosen by the Governor in his discretion 35

15 A Province exclusive of any portion thereof which His Majesty in Council may deem unsuitable for inclusion in any constituency or in any constituency of any particular class, shall be divided into territorial constituencies— 40

(i) for the purpose of electing persons to fill the general seats

(ii) for the purpose of electing persons to fill the Muhammadan seats;

(iii) for the purpose of electing persons to fill the European seats;

(iv) for the purpose of electing persons to fill the Indian Christian seats, if any.

In the case of each such class of constituency as aforesaid the total number of seats available shall be distributed between the constituencies by the assignment of one or more of those seats to each constituency.

16. At an election in a constituency to fill a general seat persons entitled to vote in a Muhammadan constituency, a European constituency or an Indian Christian constituency shall not be entitled to vote.

In the case of a Muhammadan constituency, a European constituency or an Indian Christian constituency no person shall be entitled to vote who is not, as the case may be, a Muhammadan, a European or an Indian Christian.

17. The qualifications entitling a person to vote in territorial constituencies at elections of members of a Provincial Legislative Council and the qualifications to be possessed by members of such Councils shall be such as may be prescribed.

18. The term of office of a member of the Legislative Council of a Province other than a member chosen to fill a casual vacancy shall be nine years, but upon the first constitution of the Council the Governor in his discretion shall make by order such provision as he thinks fit by curtailing the term of office of some of the members then chosen for securing that as nearly as may be one third of the members holding seats of each class shall retire in every third year thereafter.

A member chosen to fill a casual vacancy shall be chosen to serve for the remainder of his predecessor's term of office.

General.

19. In the *foregoing* provisions of this Schedule the following expressions have the meanings hereby assigned to them, that is to say,—

"European", "Anglo-Indian" and "the scheduled castes" have the same meanings respectively as they have in Part I of the First Schedule to this Act;

"backward areas" and "backward tribes" mean respectively such areas and tribes as His Majesty in Council may from time to time declare to be areas and tribes to which a special system of representation is more appropriate; and

A.D. 1935.

5th Sch.
—*cont.*

"prescribed" means prescribed by His Majesty in Council or, so far as regards any matter which under this Act the Provincial Legislature or the Governor are competent to regulate, prescribed by an Act of that Legislature or by a rule made under the next succeeding paragraph.

20. In so far as provision with respect to any matter is not made by this Act or by His Majesty in Council or, after the constitution of the Provincial Legislature, by Act of that Legislature (where the matter is one with respect to which that Legislature is competent to make laws), the Governor exercising his individual judgment may make rules for carrying into effect the foregoing provisions of this Schedule and securing the due constitution of the Provincial Legislature and in particular, but without prejudice to the generality of the foregoing words, with respect to—

(i) the notification of vacancies including casual vacancies and the proceedings to be taken for filling vacancies;

(ii) the nomination of candidates;

(iii) the conduct of elections, including the application to elections of the principle of proportional representation by means of the single transferable vote and the rules to regulate elections where certain of the seats to be filled are reserved for members of the scheduled classes, or in the case of Bombay for Marathas, or where certain of the seats allotted to any community must be held by a woman or by a specified type of landholder;

(iv) the expenses of candidates at elections;

(v) corrupt practices and other offences at or in connection with offences;

(vi) the decision of doubts and disputes arising out of or in connection with elections; and

(vii) the manner in which the rules are to be carried into effect.

TABLE OF SEATS.

Provincial Legislative Assemblies.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.	12.	13.	14.	15.	16.	17.	18.	19.
		General Seats.												Seats for Women.				
Province.	Total Seats.	Total of General Seats.	General Seats reserved for Scheduled Castes.	Seats for representatives of backward areas and tribes.	Sikh Seats.	Muhammadan Seats.	Anglo-Indian Seats.	European Seats.	Indian Christian Seats.	Seats for representatives of commerce, industry, mining and planting.	Landholders Seats.	University Seats.	Seats for representatives of labour.	General.	Sikh.	Muhammadan.	Anglo-Indian.	Indian Christian.
Madras	215	146	30	1	—	28	2	3	8	6	6	1	6	6	—	1	—	1
Bombay	175	114	15	1	—	29	2	3	3	7	2	1	7	5	—	1	—	—
Bengal	250	78	30	—	—	117	3	11	2	19	5	2	8	2	—	2	1	—
United Provinces	228	140	20	—	—	64	1	2	2	3	6	1	3	4	—	2	—	—
Punjab	175	42	8	—	31	84	1	1	2	5	5	1	3	1	1	2	—	—
Bihar	152	86	15	7	—	39	1	2	1	4	4	1	3	3	—	1	—	—
Central Provinces and Berar	112	84	20	1	—	14	1	1	—	2	3	1	2	3	—	1	—	—
Assam	108	47	7	9	—	34	—	1	1	11	—	—	4	1	—	—	—	—
North West Frontier Province	50	9	—	—	3	36	—	—	—	—	2	—	—	—	—	—	—	—
Orissa	60	44	6	5	—	4	—	—	1	1	2	—	1	2	—	—	—	—
Sind	60	18	—	—	—	33	—	2	—	2	2	—	1	1	—	1	—	—

In Bombay seven of the general seats shall be reserved for Marathas.
In the Punjab one of the Landholders seats shall be a seat to be filled by a Tumandar.
In Assam the seat reserved for women shall be a non-communal seat.

A.D 1935

Section 100

SEVENTH SCHEDULE

Legislative Lists

List I

Federal Legislative List

1 His Majesty s naval military and air forces in India and any other armed force raised in India by the Crown not being forces raised for employment in Indian States or military or armed police maintained by Provincial Governments including the use of those forces in aid of the civil power whether Federal or Provincial central intelligence bureau preventive detention in relation to defence and external affairs

2 Naval military and air force works local self government in cantonment areas the regulation of house accommodation in such areas and within British India the delimitation of such areas

3 External affairs the implementing of treaties and agreements with other countries extradition including the surrender of criminals and accused persons to parts of His Majesty s dominions outside India

4 Ecclesiastical affairs including European cemeteries

5 Currency coinage and legal tender

6 Public debt of the Federation

7 Posts and telegraphs including telephones wireless broadcasting and other like forms of communication Post Office Savings Bank

8 Federal Public Services and Federal Public Service Commission

9 Federal pensions that is to say pensions payable by the Federation or out of Federal revenues

10 Works lands and buildings vested in or in the possession of His Majesty for the purposes of the Federation but as regards property situate in a Province subject always to Provincial legislation save in so far as Federal law otherwise provides

11 The Imperial Library the Indian Museum the Imperial War Museum the Victoria Memorial and any similar institution controlled or financed by the Federation

12 Federal agencies and institutes for the following purposes that is to say for research for professional or technical training or for the promotion of special studies

13 The Benares Hindu University and the Aligarh Muslim University

14 The Survey of India the Geological Botanical and Zoological Surveys of India Federal meteorological organisations

15 Ancient and historical monuments archaeological sites and remains

16 Census

17 Admission into and emigration and expulsion from, India including in relation thereto the regulation of the movements in India of persons who are not Indian subjects of His Majesty subjects of any Federated State or British subjects domiciled in the United Kingdom pilgrimages to places beyond India

18 Port quarantine seamen s and marine hospitals, and hospitals connected with port quarantine

19 Import and export across customs frontiers as defined by 15 the Federal Government

20 Railways that is to say the regulation of Federal railways the regulation of other railways in respect of maximum and minimum rates and fares terminal charges safety routeing and interchangeability of traffic and limitation of liability, 20 construction of new railways other than minor railways reconstruction of existing railways other than minor railways

21 Regulation and control of vessels (other than vessels propelled by sails or oars) on navigable waterways situate in more than one unit and the rule of the road on such waterways

25 22 Maritime shipping and navigation including shipping and navigation on tidal waters Admiralty jurisdiction

23 Major ports that is to say the declaration and delimitation of such ports and the constitution and powers of Port Authorities therein

30 24 Fishing and fisheries beyond territorial waters

25 Aircraft and air navigation regulation and organisation of air traffic and of aerodromes

26 Lighthouses including lightships beacons and other provision for the safety of shipping and aircraft

35 27 Carriage of passengers and goods by sea by navigable waterways situate in more than one unit or by air

28 Copyright, inventions designs, trademarks and merchandise marks

29 Cheques, bills of exchange promissory notes and other like 40 instruments

30 Arms firearms ammunition

31 Explosives

A.D. 1935
Section 100.

SEVENTH SCHEDULE

LEGISLATIVE LISTS.

LIST I

FEDERAL LEGISLATIVE LIST

1. His Majesty's naval, military and air forces in India and any other armed force raised in India by the Crown, not being forces raised for employment in Indian States or military or armed police maintained by Provincial Governments, including the use of those forces in aid of the civil power, whether Federal or Provincial; central intelligence bureau; preventive detention in relation to defence and external affairs.

2. Naval, military and air force works; local self-government in cantonment areas, the regulation of house accommodation in such areas, and, within British India, the delimitation of such areas.

3. External affairs; the implementing of treaties and agreements with other countries; extradition, including the surrender of criminals and accused persons to parts of His Majesty's dominions outside India.

4. Ecclesiastical affairs, including European cemeteries.

5. Currency, coinage and legal tender.

6. Public debt of the Federation.

7. Posts and telegraphs, including telephones, wireless, broadcasting and other like forms of communication; Post Office Savings Bank.

8. Federal Public Services and Federal Public Service Commission.

9. *Federal pensions, that is to say, pensions payable by the Federation or out of Federal revenues.*

10. Works, lands and buildings vested in or in the possession of His Majesty for the purposes of the Federation, but, as regards property situate in a Province, subject always to Provincial legislation, save in so far as Federal law otherwise provides.

11. The Imperial Library, the Indian Museum, the Imperial War Museum, the Victoria Memorial, and any similar institution controlled or financed by the Federation.

12. Federal agencies and institutes for the following purposes, that is to say, for research, for professional or technical training, or for the promotion of special studies.

13. The Benares Hindu University and the Aligarh Muslim University.

45 Salt

46 State lotteries

47 Naturalisation

48 Migration within India from or into a Governor's Province or a Chief Commissioner's Province

49 Establishment of standards of weight

50 Jurisdiction and powers of all courts except the Federal Court, with respect to any of the matters in this list

51 Taxes on income other than income from agricultural land

52 Taxes on the capital of individuals or of companies, other than agricultural land

53 Duties in respect of succession to property other than agricultural land

54 The rates of stamp duty in respect of bills of exchange, cheques promissory notes bills of lading letters of credit, policies of insurance proxies and receipts

55 Terminal taxes on goods or passengers carried by railway, water or air taxes on railway fares and freights

56 Fees in respect of any of the matters in this list, but not including fees taken in any Court

List II

Provincial Legislative List

1 Public order and the administration of justice constitution and organisation of all courts, except the Federal Court, and fees taken therein

2 Jurisdiction and powers of all courts except the Federal Court with respect to any of the matters in this list, procedure in Rent and Revenue Courts

3 Police, including railway and village police

4 Prisons reformatories Borstal institutions and other institutions of a like nature, and persons detained therein; arrangements with other units for the use of prisons and other institutions, preventive detention and persons subject to such detention

A D 1935
7TH SCH —*cont*

5 Public debt of the Province

6 Provincial Public Services and Provincial Public Service Commissions

7 Provincial pensions that is to say pensions payable by the Province or out of Provincial revenues 5

8 Works lands and buildings vested in or in the possession of His Majesty for the purposes of the Province

9 Compulsory acquisition of land

10 Libraries museums and other similar institutions controlled or financed by the Province 10

11 Conduct of elections to the Provincial Legislature including election offences and disputed elections subject to the provisions of any Order in Council made by or under this Act

12 Local government that is to say the constitution and powers of municipal corporations improvement trusts district 15 boards mining settlement authorities and other local authorities for the purpose of local self government or village administration

13 Public health and sanitation hospitals and dispensaries registration of births and deaths

14 Pilgrimages other than pilgrimages to places beyond 20 India

15 Burials and burial grounds

16 Education

17 Communications that is to say roads bridges ferries and other means of communication not specified in List I minor 25 railways inland waterways and traffic thereon subject to the provisions of List I with regard to navigable waterways situate in more than one unit ports subject to the provisions in List I with regard to major ports vehicles other than mechanically propelled vehicles 30

18 Water that is to say water supplies irrigation and canals drainage and embankments water storage and water power

19 Agriculture including agricultural education and research protection against pests and prevention of plant diseases 35 improvement of stock and prevention of animal diseases veterinary training and practice pounds and the prevention of cattle trespass

20 Land, that is to say, rights in or over land, land tenures, including the relation of landlord and tenant, and the collection of rents; transfer and devolution of agricultural land, land improvement and agricultural loans colonization Courts of 5 Wards, encumbered estates, treasure trove

21 Forests

22 Mines, including the development of mineral resources of the Province

23 Fisheries

24 Protection of wild birds and wild animals

25 Gas and gasworks

26 Trade and commerce within the Province, markets and fairs, money lending and money lenders

27 Inns and innkeepers

28 Production supply and distribution of commodities development of industries subject to the provisions in List I with respect to the development of certain industries under Federal control

29 Adulteration of foodstuffs and other articles weights and measures

30 Intoxicating liquors and narcotic drugs, that is to say, the production manufacture possession transport, purchase and sale of intoxicating liquors opium and other narcotic drugs but subject as respects opium to the provisions of List I and as respects poisons and dangerous drugs to the provisions of List III

31 Relief of the poor unemployment

32 The incorporation regulation and winding up of corporations other than corporations specified in List I unincorporated trading literary scientific religious and other societies and associations co operative societies

33 Charities and charitable institutions charitable and religious endowments

34 Theatres, dramatic performances and cinemas but not including the sanction of cinematograph films for exhibition

35 Betting and gambling

36 Offences against laws with respect of any of the matters in this list

37 Statistics for the purpose of any of the matters in this list

A D 1935

7TH SCH —*cont*

38 Land revenue including the assessment and collection of revenue the maintenance of land records survey for revenue purposes and records of rights and alienation of revenue

39 Duties of excise on the following commodities and articles manufactured or produced in India— 5

(*a*) alcoholic liquors for human consumption

(*b*) Opium Indian hemp and other narcotic drugs and narcotics non narcotic drugs

(c) medicinal and toilet preparations containing alcohol or any substance included in sub paragraph (*b*) of this 10 entry

40 Taxes on income from agricultural land

41 Taxes on lands and buildings hearths and windows

42 Duties in respect of succession to agricultural land

43 Taxes on mineral rights 15

44 Capitation taxes

45 Taxes on professions trades callings and employments

46 Taxes on animals and boats

47 Taxes on the sale of commodities on turnover and on advertisements 20

48 Cesses on the entry of goods into a local area

49 Taxes on luxuries including taxes on entertainments amusements betting and gambling

50 The rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates 25 of stamp duty

51 Fees in respect of any of the matters in this list but not including fees taken in any Court

LIST III

CONCURRENT LEGISLATIVE LIST 30

PART I

1 Criminal law including all matters included in the Indian Penal Code at the date of the passing of this Act but excluding offences against laws with respect to any of the matters specified in List I or List II 35

2 Criminal Procedure including all matters included in the Code of Criminal Procedure at the date of the passing of this Act

3 Civil Procedure including the law of Limitation and all matters included in the Code of Civil Procedure at the date of the passing of this Act the recovery in a Governor's Province or a Chief Commissioner s Province of claims in respect of taxes and 5 other public demands including arrears of land revenue and sums recoverable as such arising outside that Province

4 Evidence and oaths recognition of laws public acts and records and judicial proceedings

5 Marriage and divorce infants and minors adoption

10 6 Wills intestacy and succession save as regards agricultural land

7 Transfer of property other than agricultural land registration of deeds and documents

8 Trusts and Trustees

15 9 Contracts including partnership agency contracts of carriage and other special forms of contract

10 Arbitration

11 Bankruptcy and insolvency administrators general and official trustees

20 12 Stamp duties other than duties or fees collected by means of judicial stamps but not including rates of stamp duty

13 Actionable wrongs save in so far as included in laws with respect to any of the matters specified in List I or List II

14 Jurisdiction and powers of all courts except the Federal 25 Court with respect to any of the matters in this list

15 Legal medical and other professions

16 Newspapers books and printing presses

17 Lunacy and mental deficiency including place for the reception or treatment of lunatics and mental deficients

30 18 Poisons and dangerous drugs

19 Health insurance including invalidity pensions old age pensions

20 Mechanically propelled vehicles

21 Boilers

35 22 Prevention of cruelty to animals

23 European vagrancy, criminal tribes

A D 1935
7TH SCH
—*cont*

24 Statistics for the purpose of any of the matters in this Part of this List

25 Fees in respect of any of the matters in this Part of this List but not including fees taken in any Court

PART II

26 Factories, regulation of the working of mines, but not including mineral development

27 Welfare of labour, provident funds, employers' liability and workmen s compensation

28 Trade unions, industrial and labour disputes 10

29 The prevention of the extension from one unit to another of infectious or contagious diseases or pest affecting men animals or plants

30 Electricity

31 The sanctioning of cinematograph films for exhibition 15

32 Persons subject to preventive detention under any Federal law

33 Statistics for the purpose of any of the matters in this Part of this List

34 Fees in respect of any of the matters in this Part of 20 this List, but not including fees taken in any Court

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In this Schedule "unit" means a Governor's Province a Chief Commissioner's Province or a Federated State "railway" includes "tramway", "minor railway" means a railway situate wholly in a unit and not in physical connection with or of the 25 same gauge as an adjacent railway extending beyond a single unit, "Federal railways" includes all railways not being minor railways or railways owned by a State and managed by or on behalf of the ruler of that State

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EIGHTH SCHEDULE

A D 1935

THE FEDERAL RAILWAY AUTHORITY

Section 176

1 The Federal Railway Authority which shall be a body corporate by, and may sue and be sued in, that name, (in this 5 Schedule referred to as "the Authority") shall consist of seven persons to be appointed by the Governor General

2 A person shall not be qualified to be appointed or to be a member of the Authority—

(a) unless he has had experience in commerce, industry, 10 agriculture, finance, or administration, or

(b) if he is, or within the twelve months last preceding has been—

(i) a member of the Federal or any Provincial Legislature, or

15 (ii) in the service of the Crown in India, or

(iii) a railway official in India

3 Of the first members of the Authority three shall be appointed for three years and any of those members shall at the expiration of his original term of office be eligible for re-20 appointment for a further term of three years, or of five years

Subject as aforesaid, a member of the Authority shall be appointed for five years and shall at the expiration of his original term of office be eligible for re appointment for a further term not exceeding five years

25 The Governor General, exercising his individual judgment, may terminate the appointment of any member if satisfied that that member is for any reason unable or unfit to continue to perform the duties of his office

4 A member of the Authority shall be entitled to receive 30 such salary and allowances as the Governor General exercising his individual judgment, may determine

Provided that the emoluments of a member shall not be reduced during his term of office

5 All acts of the Authority and all questions before them 35 shall be done and decided by a majority of the members present and voting at a meeting of the Authority

In the case of an equality of votes at any meeting the person presiding thereat shall have a second or casting vote

6 If a member of the Authority is or becomes the holder of 40 any contract for the supply of materials to or the execution of works for, any railway in India, or is or becomes concerned in the management of any company holding such a contract as aforesaid he shall forthwith make full disclosure of the facts to the

A D 1935

8th Sch —cont

Authority and shall not take part in the consideration or discussion of, or vote on, any question with respect to the contract

7 At any meeting of the Authority a person or persons deputed by the Governor General to represent him may attend and speak, but not vote

8 Subject to the provisions of this Act, the Authority may make standing orders for the regulation of their proceedings and business and may vary or revoke any such order

9 The proceedings of the Authority shall not be invalidated by any vacancy among their number or by any defect in the appointment or qualification of any member

10 At the head of the executive staff of the Authority there shall be a chief railway commissioner, being a person with experience in railway administration, who shall be appointed by the Authority, subject to confirmation by the Governor General, exercising his individual judgment

11 The chief railway commissioner shall be assisted in the performance of his duties by a financial commissioner, who shall be appointed by the Governor General, and by such additional commissioners, being persons with experience in railway administration, as the Authority on the recommendation of the chief railway commissioner may appoint

12 The chief railway commissioner shall not be removed from office except by the Authority and with the approval of the Governor General, exercising his individual judgment, and the financial commissioner shall not be removed from office except by the Governor General, exercising his individual judgment

13 The chief railway commissioner and the financial commissioner shall have the right to attend any meeting of the Authority, and the financial commissioner shall have the right to require any matter which relates to, or affects, finance to be referred to the Authority

14 The Authority shall not be liable to pay Indian income tax or supertax on any of its income, profits or gains

15 The authority shall entrust all their money which is not immediately needed to the Reserve Bank of India and employ that bank as their agents for all transactions in India relating to remittances, exchange and banking, and the bank shall undertake the custody of such moneys and such agency transactions on the same terms and conditions as those upon which they undertake the custody of moneys, belonging to, or agency transactions, for the Federal Government

NINTH SCHEDULE

A D 1935

Section 295

Provisions of Government of India Act Continued in Force with Amendments Until the Establishment of the Federation.

5 *The Governor General's Executive Council*

36 – (1) The members of the Governor General's Executive Council shall be appointed by His Majesty by warrant under the Royal Sign Manual

Members of Council

(2) The number of the members of the Council shall be such 10 as His Majesty thinks fit to appoint

(3) Three at least of them must be persons who have been for at least ten years in the service of the Crown in India, and one must be a barrister of England or Ireland, or a member of the Faculty of Advocates of Scotland or a pleader of a high court 15 of not less than ten years' standing

(4) If any member of the Council (other than the Commander-in Chief for the time being of His Majesty's forces in India) is at the time of his appointment in the military service of the Crown, he shall not during his continuance in office as 20 such member hold any military command or be employed in actual military duties

(5) Provision may be made by rules under this Act as to the qualifications to be required in respect of the members of the Governor General's Executive Council in any case where such 25 provision is not made by the foregoing provisions of this section

37 If the Commander in Chief for the time being of His Majesty's forces in India is a member of the Governor General's Executive Council, he shall, subject to the provisions of this Act, have rank and precedence in the Council next after the 30 Governor General

Rank and precedence of Commander in Chief

38 The Governor General shall appoint a member of his Executive Council to be vice president thereof

Vice President of Council

39 – (1) The Governor General's Executive Council shall assemble at such places in India as the Governor General in 35 Council appoints

Meetings

(2) At any meeting of the Council the Governor General or other person presiding and one member of the Council (other than the Commander in Chief) may exercise all the functions of the Governor General in Council

40 40 – (1) All orders and other proceedings of the Governor General in Council shall be expressed to be made by the Governor General in Council, and shall be signed by a secretary to the Government of India, or otherwise as the Governor General in

Business of Governor General Council.

A D 1935

9TH SCH —*cont*

Council may direct, and, when so signed, shall not be called into question in any legal proceeding on the ground that they were not duly made by the Governor General in Council

(2) The Governor General may make rules and orders for the more convenient transaction of business in his Executive Council, and every order made or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the Governor-General in Council

Procedure in case of difference of opinion

41 —(1) If any difference of opinion arises on any question brought before a meeting of the Governor General's Executive Council, the Governor General in Council shall be bound by the opinion and decision of the majority of those present, and, if they are equally divided, the Governor General or other person presiding shall have a second or casting vote

(2) Provided that, whenever any measure is proposed before the Governor General in Council, whereby the safety, tranquillity or interests of British India, or of any part thereof, are or may be, in the judgment of the Governor-General, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended or rejected and the majority present at a meeting of the Council dissent from that opinion, the Governor General may, on his own authority and responsibility, adopt, suspend or reject the measure, in whole or in part

(3) In every such case any two members of the dissentient majority may require that the adoption, suspension or rejection of the measure, and the fact of their dissent, be reported to the Secretary of State, and the report shall be accompanied by copies of any minutes which the members of the Council have recorded on the subject

(4) Nothing in this section shall empower the Governor General to do anything which he could not lawfully have done with the concurrence of his Council

Provisions for absence of Governor General from meetings of Council

42 If the Governor General is obliged to absent himself from any meeting of the Council, by indisposition or any other cause, the vice president, or, if he is absent, the senior member (other than the Commander in-Chief) present at the meeting shall preside thereat, with the like powers as the Governor General would have had if present

Provided that, if the Governor General is at the time resident at the place where the meeting is assembled and is not prevented by indisposition from signing any act of Council made at the meeting, the act shall require his signature, but if he declines or refuses to sign it, the like provisions shall have effect as in cases where the Governor-General, when present, dissents from the majority at a meeting of the Council

43 —(1) Whenever the Governor General in Council declares that it is expedient that the Governor General should visit any part of India unaccompanied by his Executive Council, the Governor General in Council may, by order, authorize the 5 Governor General alone to exercise, in his discretion, all or any of the powers which might be exercised by the Governor General in Council at meetings of the Council

Powers of Governor General in absence from Council

The Indian Legislature

63 Subject to the provisions of this Act, the Indian legis 10 lature shall consist of the Governor General and two chambers, namely, the Council of State and the Legislative Assembly

Indian legislature

Except as otherwise provided by or under this Act, a Bill shall not be deemed to have been passed by the Indian legislature unless it has been agreed to by both chambers, either without 15 amendment or with such amendments only as may be agreed to be both chambers

63A —(1) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under this Act, of whom not more than twenty shall be 20 official members

Council of State

(2) The Governor General shall have power to appoint, from among the members of the Council of State, a president and other persons to preside in such circumstances as he may direct

(3) The Governor General shall have the right of addressing 25 the Council of State, and may for that purpose require the attendance of its members

63B —(1) The Legislative Assembly shall consist of members nominated or elected in a cordance with rules made under this Act

Legislative Assembly

30 (2) The total number of members of the Legislative Assembly shall be one hundred and forty The number of non elected members shall be forty, of whom twenty six shall be official members The number of elected members shall be one hundred

Provided that rules made under this Act may provide for 35 increasing the number of members of the Legislative Assembly as fixed by this section, and may vary the proportion which the classes of members bear one to another, so however, that at least five-sevenths of the members of the Legislative Asse shall be elected members, and at least one third of the other 40 shall be non official members

(3) The Governor General shall have the right the Legislative Assembly, and may for that p attendance of its members

63C —(1) There shall be a presiden 45 Assembly, who shall be a member of the Assembly and approved by the Go

A.D. 1935
9th Sch.
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Council may direct, and, when so signed, shall not be called into question in any legal proceeding on the ground that they were not duly made by the Governor-General in Council.

(2) The Governor-General may make rules and orders for the more convenient transaction of business in his Executive 5 Council, and every order made or act done, in accordance with such rules and orders, shall be treated as being the order or the act of the Governor-General in Council.

Procedure in case of difference of opinion.

41.—(1) If any difference of opinion arises on any question brought before a meeting of the Governor-General's Executive 10 Council, the Governor-General in Council shall be bound by the opinion and decision of the majority of those present, and, if they are equally divided, the Governor-General or other person presiding shall have a second or casting vote.

(2) Provided that, whenever any measure is proposed before 15 the Governor-General in Council, whereby the safety, tranquillity or interests of British India, or of any part thereof, are or may be, in the judgment of the Governor-General, essentially affected, and he is of opinion either that the measure proposed ought to be adopted and carried into execution, or that it ought to be suspended 20 or rejected, and the majority present at a meeting of the Council dissent from that opinion, the Governor-General may, on his own authority and responsibility, adopt, suspend or reject the measure, in whole or in part.

(3) In every such case any two members of the dissentient 25 majority may require that the adoption, suspension or rejection of the measure, and the fact of their dissent, be reported to the Secretary of State, and the report shall be accompanied by copies of any minutes which the members of the Council have recorded on the subject. 30

(4) Nothing in this section shall empower the Governor-General to do anything which he could not lawfully have done with the concurrence of his Council.

Provisions for absence of Governor-General from meetings of Council.

42. If the Governor-General is obliged to absent himself from any meeting of the Council, by indisposition or any other 35 cause, the vice-president, or, if he is absent, the senior member (other than the Commander-in-Chief) present at the meeting shall preside thereat, with the like powers as the Governor-General would have had if present:

Provided that, if the Governor-General is at the time resident 40 at the place where the meeting is assembled and is not prevented by indisposition from signing any act of Council made at the meeting, the act shall require his signature, but, if he declines or refuses to sign it, the like provisions shall have effect as in cases where the Governor-General, when present, dissents from the 45 majority at a meeting of the Council.

A D 1935

9th Sch —cont

Powers of Governor General in absence from Council

43—(1) Whenever the Governor General in Council declares that it is expedient that the Governor General should visit any part of India unaccompanied by his Executive Council the Governor General in Council may by order authorize the 5 Governor General alone to exercise in his discretion all or any of the powers which might be exercised by the Governor General in Council at meetings of the Council

The Indian Legislature

Indian legislature

63 Subject to the provisions of this Act the Indian legis 10 lature shall consist of the Governor General and two chambers namely the Council of State and the Legislative Assembly

Except as otherwise provided by or under this Act a Bill shall not be deemed to have been passed by the Indian legislature unless it has been agreed to by both chambers either without 15 amendment or with such amendments only as may be agreed to be both chambers

Council of State

63A—(1) The Council of State shall consist of not more than sixty members nominated or elected in accordance with rules made under this Act of whom not more than twenty shall be 20 official members

(2) The Governor General shall have power to appoint from among the members of the Council of State a president and other persons to preside in such circumstances as he may direct

(3) The Governor General shall have the right of addressing 25 the Council of State and may for that purpose require the attendance of its members

Legislative Assembly

63B—(1) The Legislative Assembly shall consist of members nominated or elected in accordance with rules made under this Act

30 (2) The total number of members of the Legislative Assembly shall be one hundred and forty The number of non elected members shall be forty of whom twenty six shall be official members The number of elected members shall be one hundred

Provided that rules made under this Act may provide for 35 increasing the number of members of the Legislative Assembly as fixed by this section and may vary the proportion which the classes of members bear one to another so however that at least five sevenths of the members of the Legislative Assembly shall be elected members and at least one third of the other members 40 shall be non official members

(3) The Governor General shall have the right of addressing the Legislative Assembly and may for that purpose require the attendance of its members

President of Legislative Assembly

63C—(1) There shall be a president of the Legislative 45 Assembly, who shall be a member of the Assembly elected by the Assembly and approved by the Governor General

A D 1935

9TH SCH —*cont*

(2) There shall be a deputy president of the Legislative Assembly, who shall preside at meetings of the Assembly in the absence of the president, and who shall be a member of the Assembly elected by the Assembly and approved by the Governor General 5

(3) A president and a deputy president shall cease to hold office if they cease to be members of the Assembly They may resign office by writing under their hands addressed to the Governor General and may be removed from office by a vote of the Assembly with the concurrence of the Governor General 10

(4) A president and deputy president shall receive such salaries as may be determined by Act of the Indian Legislature

Duration and sessions of Legislative Assembly and Council of State

63D —(1) Every Council of State shall continue for five years and every Legislative Assembly for three years from its first meeting 15

Provided that—

(*a*) either chamber of the legislature may be sooner dissolved by the Governor General, and

(*b*) any such period may be extended by the Governor General if in special circumstances he so thinks fit 20 and

(*c*) after the dissolution of either chamber the Governor General shall appoint a date not more than six months or, with the sanction of the Secretary of State, not more than nine months, after the date o dissolution 25 for the next session of that chamber

(2) The Governor General may appoint such times and places for holding the sessions of either chamber of the Indian legislature as he thinks fit, and may also from time to time, by notification or otherwise, prorogue such sessions 30

(3) Any meeting of either chamber of the Indian legislature may be adjourned by the person presiding

(4) All questions in either chamber shall be determined by a majority of votes of members present other than the presiding member who shall, however, have and exercise a casting vote 35 in the case of an equality of votes

(5) The powers of either chamber of the Indian legislature may be exercised notwithstanding any vacancy in the chamber

Membership of both chambers

63E —(1) An official shall not be qualified for election as a member of either chamber of the Indian legislature and, if any 40 non official member of either chamber accepts office in the service of the Crown in India, his seat in that chamber shall become vacant

(2) If an elected member of either chamber of the Indian legislature becomes a member of the other chamber, his seat 45 in such first mentioned chamber shall thereupon become vacant

A D 1935
9TH SCH
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(3) If any person is elected a member of both chambers of the Indian legislature, he shall, before he takes his seat in either chamber, signify in writing the chamber of which he desires to be a member, and thereupon his seat in the other chamber shall 5 become vacant

(4) Every member of the Governor General s Executive Council shall be nominated as a member of one chamber of the Indian legislature and shall have the right of attending in and addressing the other chamber but shall not be a member of both 10 chambers

Supplementary provisions as to composition of Legislative Assembly and Council of State

64 —(1) Subject to the provisions of this Act, provision may be made by rules under this Act as to—

(a) the term of office of nominated members of the Council of State and the Legislative Assembly, and the manner 15 of filling casual vacancies occurring by reason of absence of members from India, inability to attend to duty, death acceptance of office, or resignation duly accepted, or otherwise , and

(b) the conditions under which and the manner in which 20 persons may be nominated as members of the Council of State or the Legislative Assembly , and

(c) the qualification of electors the constitution of constituencies and the method of election for the Council of State and the Legislative Assembly (including the 25 number of members to be elected by communal and other electorates) and any matter incidental or ancillary thereto and

(d) the qualifications for being or for being nominated or elected as members of the Council of State or the 30 Legislative Assembly , and

(e) the final decision of doubts or disputes as to the validity of an election , and

(f) the manner in which the rules are to be carried into effect

(2) Subject to any such rules any person who is a ruler or 35 subject of any state in India may be nominated as a member of the Council of State or the Legislative Assembly

Business and proceedings in Indian Legislature

67 —(1) Provision may be made by rules under this Act for regulating the course of business and the preservation of order in the chambers of the Indian legislature, and as to the 40 persons to preside at the meetings of the Legislative Assembly in the absence of the president and the deputy president , and the rules may provide for the number of members required to constitute a quorum, and for prohibiting or regulating the asking of questions on, and the discussion of, any subject specified in the 45 rules

(2A) Where in either chamber of the Indian legislature any Bill has been introduced, or is proposed to be introduced, or any

A D 1935

9th Sch —cont

amendment to a Bill is moved, or proposed to be moved, the Governor General may certify that the Bill, or any clause of it, or the amendment, affects the safety or tranquillity of British India or any part thereof, and may direct that no proceedings, or that no further proceedings shall be taken by the chamber in relation to the Bill, clause, or amendment and effect shall be given to such direction

(3) If any Bill which has been passed by one chamber is not, within six months after the passage of the Bill by that chamber passed by the other chamber either without amendments or with such amendments as may be agreed to by the two chambers the Governor General may in his discretion refer the matter for decision to a joint sitting of both chambers Provided that standing orders made under this section may provide for meetings of members of both chambers appointed for the purpose, in order to discuss any difference of opinion which has arisen between the two chambers

(4) Without prejudice to the powers of the Governor General under section sixty eight of this Act the Governor General may, where a Bill has been passed by both chambers of the Indian legislature return the Bill for reconsideration by either chamber

(5) Rules made for the purpose of this section may contain such general and supplemental provisions as appear necessary for the purpose of giving full effect to this section

(6) Standing orders may be made providing for the conduct of business and the procedure to be followed in either chamber of the Indian legislature in so far as these matters are not provided for by rules made under this Act The first standing orders shall be made by the Governor General in Council, but may, with the consent of the Governor General, be altered by the chamber to which they relate

Any standing order made as aforesaid which is repugnant to the provisions of any rules made under this Act shall, to the extent of that repugnancy but not otherwise, be void

(7) Subject to the rules and standing orders affecting the chamber there shall be freedom of speech in both chambers of the Indian legislature No person shall be liable to any proceedings in any court by reason of his speech or vote in either chamber, or by reason of anything contained in any official report of the proceedings of either chamber

Indian Budget

67A —(1) The estimated annual expenditure and revenue of the Governor General in Council shall be laid in the form of a statement before both Chambers of the Indian legislature in each year

(2) No proposal for the appropriation of any revenue or moneys for any purpose shall be made except on the recommendation of the Governor General

A.D. 1935
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9th Sch
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(3) The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to the following heads of expenditure shall not be submitted to the vote of the Legislative Assembly, nor shall they be open to discussion by either Chamber at the time when the annual statement is under consideration unless the Governor General otherwise directs —

(i) interest and sinking fund charges on loans, and

(ii) expenditure of which the amount is prescribed by or under any law and

(iii) salaries (including in the case of the Governor General sums payable on his account in respect of his office) and pensions payable to or to the dependants of—

(*a*) persons appointed by or with the approval of His Majesty

(*b*) Chief Commissioners and Judicial Commissioners, and

(iv) any grants for purposes connected with the administration of any areas in a Province which are for the time being Excluded Areas and

(v) the sums payable to His Majesty under the Government of India Act 1935, in respect of the expenses of His Majesty incurred in discharging the functions of the Crown in relation to Indian States and

(vi) expenditure classified by the order of the Governor General in Council as—

(*a*) ecclesiastical,

(*b*) external affairs,

(*c*) defence

(vii) any other expenditure declared by the provisions of the Government of India Act 1935, for the time being in force to be charged on the revenues of the Federation

(4) If any question arises as to whether any proposed appropriation of revenue or moneys does or does not relate to the above heads the decision of the Governor General on the question shall be final

(5) The proposals of the Governor General in Council for the appropriation of revenue or moneys relating to heads of expenditure not specified in the above heads shall be submitted to the vote of the Legislative Assembly in the form of demands for grants

(6) The Legislative Assembly may assent or refuse its assent to any demand or may reduce the amount referred to in any demand by a reduction of the whole grant

(7) The demands as voted by the Legislative Assembly shall be submitted to the Governor General in Council who shall if he declares that he is satisfied that any demand which has been

A D 1935

9TH SCH —*cont*

refused by the Legislative Assembly is essential to the discharge of his responsibilities act as if it had been assented to, notwithstanding the withholding of such assent, or the reduction of the amount therein referred to, by the Legislative Assembly

(8) Notwithstanding anything in this section the Governor General shall have power, in cases of emergency, to authorise such expenditure as may, in his opinion, be necessary for the safety or tranquillity of British India or any part thereof 5

Provision for case of failure to pass legislation

67B —(1) Where either chamber of the Indian legislature refuses leave to introduce, or fails to pass in a form recommended 10 by the Governor General, any Bill the Governor General may certify that the passage of the Bill is essential for the safety, tranquillity or interests of British India, or any part thereof and thereupon—

(a) if the Bill has already been passed by the other chamber, 15 the Bill shall, on signature by the Governor General notwithstanding that it has not been consented to by both chambers forthwith become an Act of the Indian legislature in the form of the Bill as originally introduced or proposed to be introduced in the Indian legislature 20 or (as the case may be) in the form recommended by the Governor General , and

(b) if the Bill has not already been so passed the Bill shall be laid before the other chamber, and, if consented to by that chamber in the form recommended by the 25 Governor General, shall become an Act as aforesaid on the signification of the Governor General s assent, or, if not so consented to, shall on signature by the Governor General, become an Act as aforesaid

(2) Every such Act shall be expressed to be made by the 30 Governor General and shall, as soon as practicable after being made, be laid before both Houses of Parliament and shall not have effect until it has received His Majesty s assent and shall not be presented for His Majesty s assent until copies thereof have been laid before each House of Parliament for not less than eight 35 days on which that House has sat , and upon the signification of such assent by His Majesty in Council, and the notification thereof by the Governor General, the Act shall have the same force and effect as an Act passed by the Indian legislature and duly assented to 40

Provided that where in the opinion of the Governor General a state of emergency exists which justifies such action the Governor General may direct that any such Act shall come into operation forthwith, and thereupon the Act shall have such force and effect as aforesaid, subject, however, to disallowance by 45 His Majesty in Council

A D 1935
9th Sch
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Assent of Governor General to Bills

68—(1) When a Bill has been passed by both chambers of the Indian legislature the Governor General may declare that he assents to the Bill or that he withholds assent from the Bill or that he reserves the Bill for the signification of His Majesty s 5 pleasure thereon

(2) A Bill passed by both chambers of the Indian legislature shall not become an Act until the Governor General has declared his assent thereto or in the case of a Bill reserved for the signification of His Majesty s pleasure until His Majesty in 10 Council has signified his assent and that assent has been notified by the Governor General

Power of Crown to disallow Acts

69—(1) When an Act of the Indian legislature has been assented to by the Governor General he shall send to the Secretary of State an authentic copy thereof and it shall be lawful for 15 His Majesty in Council to signify his disallowance of any such Act

(2) Where the disallowance of any such Act has been so signified the Governor General shall forthwith notify the disallowance and thereupon the Act as from the date of the notification shall become void accordingly

Power to make ordinances in cases of emergency

20 72 The Governor General may in cases of emergency make and promulgate ordinances for the peace and good government of British India or any part thereof and any ordinance so made shall for the space of not more than six months from its promulgation have the like force of law as an Act passed by the Indian 25 legislature but the power of making ordinances under this section is subject to the like restrictions as the power of the Indian legislature to make laws and any ordinance made under this section is subject to the like disallowance as an Act passed by the Indian legislature and may be controlled or superseded 30 by any such Act

Salaries Leave of Absence Vacation of Office etc

Salaries and allowances of Governor General and certain other officials in India

85—(1) There shall be paid to the Governor General of India to the Commander in Chief of His Majesty s Forces in India and to the members of the Governor General s Executive 35 Council (other than the Commander in Chief) out of the revenues of the Governor General in Council such salaries and such allowances (if any) for equipment and voyage as the Secretary of State may by order fix in that behalf and subject to or in default of any such order as are payable at the commencement of Part III of the 40 Government of India Act 1934 but the salary of the Governor General shall not exceed two hundred and fifty six thousand rupees annually the salary of the Commander in Chief shall not exceed one hundred thousand rupees annually and the salary of members of the Governor General s Executive Council 45 (other than the Commander in Chief) shall not exceed eighty thousand rupees annually

A D 1935

9th Sch —*cont*

(2) Provided as follows —

(*a*) the Secretary of State shall not make any Order affecting salaries of members of the Governor General s Executive Council except after consulting his advisers and with the concurrence of at least one half of them

(*b*) if any person to whom this section applies holds or enjoys any pension or salary or any office of profit under the Crown or under any public office his salary under this section shall be reduced by the amount of the pension salary or profits of office so held or enjoyed by him

(*c*) nothing in the provisions of this section with respect to allowances shall authorise the imposition of any additional charge on the revenues of the Governor General in Council

(3) The remuneration payable to a person under this section shall commence on his taking upon himself the execution of his office and shall be the whole profit or advantage which he shall enjoy from his office during his continuance therein

Provided that nothing in this section shall apply to the allowances or other forms of profit and advantage which may have been sanctioned for such persons before the commencement of Part III of the Government of India Act 1935 by the Secretary of State in Council or may thereafter be sanctioned by the Secretary of State

Power to grant leave of absence to Governor General &c

86 —(1) The Secretary of State may grant to the Governor General and on the recommendation of the Governor General in Council to the Commander in Chief leave of absence for urgent reasons of public interest or of health or of private affairs

(2) The Governor General in Council may grant to any member of his Executive Council (other than the Commander in Chief) leave of absence for urgent reasons of health or of private affairs

(3) Leave of absence shall not be granted to any person in pursuance of this section for any period exceeding four months nor more than once during his tenure of office

Provided that the Secretary of State may if he thinks fit extend any period of leave so granted but in any such case the reasons for the extension shall be set forth in a minute signed by the Secretary of State and laid before both Houses of Parliament

(4) Where leave of absence is granted to any person in pursuance of this section he shall retain his office during the period of leave as originally granted or if that period is extended

A D 1935
9th Sch
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by the Secretary of State during the period as so extended but if his absence exceeds that period his office shall be deemed to have become vacant in the case of a person granted leave for urgent reasons of public interest as from the termination of that period and in any other case as from the commencement of his absence

(5) Where a person obtains leave of absence in pursuance of this section he shall be entitled to receive during his absence such leave allowances as may be prescribed by rules made by the Secretary of State but if he does not resume his duties upon the termination of the period of the leave he shall unless the Secretary of State otherwise directs repay in such manner as may be so prescribed as aforesaid any leave allowances received under this subsection

(6) If the Governor General or the Commander in Chief is granted leave for urgent reasons of public interest the Secretary of State may in addition to the leave allowances to which he is entitled under this section grant to him such further allowances in respect of travelling expenses as the Secretary of State may think fit

(7) Rules made under this section shall be laid before both Houses of Parliament as soon as may be after they are made

Acting appointments during the absence of the Governor General &c on leave

87 —(1) Where leave is granted in pursuance of the foregoing section to the Governor General or to the Commander in Chief a person shall be appointed to act in his place during his absence and the appointment shall be made by His Majesty by warrant under the Royal Sign Manual The person so appointed during the absence of the Commander in Chief may, if the Commander in Chief was a member of the Executive Council of the Governor General be also appointed by the Governor General in Council to be a temporary member of that Council

(2) The person so appointed shall until the return to duty of the permanent holder of the office or if he does not return until a successor arrives hold and execute the office to which he has been appointed and shall have and may exercise all the rights and powers thereof and shall be entitled to receive the emolur [illegible] the office, foregoing the em [illegible] hich he was entitled at the

Power for Governor General to exercise powers before taking seat

89 —(1) If any person appointed to the office of Governor General is in India on or after the event on which he is to succeed, and thinks it necessary to exercise the powers of Governor General before he takes his seat in Council he may make known by notification his appointment and his intention to assume the office of Governor General

A D 1935

9th Sch —cont

(2) After the notification and thenceforth until he repairs to the place where the Council may assemble he may exercise alone all or any of the powers which might be exercised by the Governor General in Council

(3) All acts done in the Council after the date of the notification but before the communication thereof to the Council shall be valid subject nevertheless to revocation or alteration by the person who has so assumed the office of Governor General 5

(4) When the office of Governor General is assumed under the foregoing provision the vice president or if he is absent the senior member of the council (other than the Commander in Chief) then present shall preside therein with the same powers as the Governor General would have had if present 10

Temporary vacancy in office of Governor General

90 (1) If a vacancy occurs in the office of Governor General when there is no successor in India to supply the vacancy 15 that one of the following governors that is to say the Governor of Madras the Governor of Bombay and the Governor of Bengal who was first appointed to the office of governor by His Majesty shall hold and execute the office of Governor General until a successor arrives or until some person in India 20 is duly appointed thereto

(2) Every such acting Governor General, while acting as such shall have and may exercise all the rights and powers of the office of Governor General and shall be entitled to receive the emoluments and advantages appertaining to the office 25 forgoing the salary and allowances appertaining to his office of Governor and shall not act in his office of Governor

(3) If on the vacancy occurring it appears to the governor who by virtue of this section holds and executes the office of Governor General necessary to exercise the powers thereof before 30 he takes his seat in Council he may make known by notification his appointment and his intention to assume the office of Governor General and thereupon the provisions of section eighty nine of this Act shall apply

(4) Until such a governor has assumed the office of Governor 35 General if no successor is on the spot to supply such vacancy the vice president or if he is absent the senior member of the Executive Council (other than the Commander in Chief) shall hold and execute the office of Governor General until the vacancy is filled in accordance with the provisions of this Act 40

(5) Every vice president or other member of Council so acting as Governor General while so acting shall have and may exercise all the rights and powers of the office of Governor General and shall be entitled to receive the emoluments and advantages appertaining to the office, forgoing his salary and 45 allowances as member of Council for that period

A D 1935
9TH SCH
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Temporary vacancy in office of member of the Executive Council

92 —(1) If a vacancy occurs in the office of a member of the Executive Council of the Governor General (other than the Commander in Chief) and there is no successor present on the spot the Governor General in Council shall supply the vacancy 5 by appointing a temporary member of council

(2) Until a successor arrives the person so appointed shall hold and execute the office to which he has been appointed and shall have and may exercise all the rights and powers thereof and shall be entitled to receive the emoluments and 10 advantages appertaining to the office forgoing all emoluments and advantages to which he was entitled at the time of his being appointed to that office

(3) If a member of the Executive Council of the Governor General (other than the Commander in Chief) is by infirmity 15 or otherwise rendered incapable of acting or of attending to act as such or is absent on leave or special duty the Governor General in Council shall appoint some person to be a temporary member of council

(4) Until the return to duty of the member so incapable 20 or absent the person temporarily appointed shall hold and execute the office to which he has been appointed and shall have and may exercise all the rights and powers thereof, and shall be entitled to receive the emoluments and advantages appertaining to the office forgoing the emoluments and ad 25 vantages (if any) to which he was entitled at the time of his being appointed to that office

(4A) When a member of the Executive Council is by infirmity or otherwise rendered incapable of acting or attending to act as such and a temporary member of council is appointed 30 in his place the absent member shall be entitled to receive half his salary for the period of his absence

(5) Provided as follows —

(*a*) no person may be appointed a temporary member of council who might not have been appointed to fill 35 the vacancy supplied by the temporary appointment, and

(*b*) if the Secretary of State informs the Governor General that it is not the intention of His Majesty to fill a vacancy in the Governor General s Executive Council, 40 no temporary appointment may be made under this section to fill the vacancy, and if any such temporary appointment has been made before the date of the receipt of the information by the Governor General, the tenure of the person temporarily appointed shall 45 cease from that date

A D 1935

9th Sch —*cont*

Vacancies in legislative council

93 —(1) A nominated or elected member of either chamber of the Indian legislature may resign his office to the Governor General, and on the acceptance of the resignation the office shall become vacant

(2) If for a period of two consecutive months any such member is absent from India or unable to attend to the duties of his office the Governor General may, by notification published *in the government gazette declare that the seat in council of that* member has become vacant

Supplemental

Provisions as to rules

129A —(1) Where any matter is required to be prescribed or regulated by rules under this Act, and no special provision is made as to the authority by whom the rules are to be made, the rules shall be made by the Governor General in Council, with the sanction of the Secretary of State, and shall not be subject to repeal or alteration by any legislature in India

(2) Any rules made under this Act may be so framed as to make different provision for different provinces

(3) Any rules to which subsection (1) of this section applies shall be laid before both Houses of Parliament as soon as may be after they are made, and, if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder

Provided that the Secretary of State may direct that any rules to which this section applies shall be laid in draft before both Houses of Parliament, and in such case the rules shall not be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications and additions to which both Houses agree but, upon such approval being given, the rules may be made in the form in which they have been approved, and such rules on being so made shall be of full force and effect, and shall not require to be further laid before Parliament

TENTH SCHEDULE

A.D. 1935
Section 99

Provisions as to Governor of Burma

1 There shall be paid to the Governor such annual salary, such allowances for his expenses in respect of equipment and travelling upon appointment and such other allowances as may from time to time be fixed by His Majesty in Council

2 Such provision shall be made for enabling the Governor to discharge conveniently and with dignity the duties of his office as may be determined by His Majesty in Council

3 While the Governor is absent on leave he shall in lieu of his salary be entitled out of the revenues of Burma to such leave allowance as may be fixed by His Majesty in Council

4 Any person appointed by His Majesty to act as Governor during the absence of the Governor from Burma or during any period during which the Governor is for any reason unable to perform the duties of his office shall while he is acting as Governor have all the powers and be subject to all the duties of the Governor and shall be entitled to receive the same salary and save as may be otherwise provided by His Majesty in Council the same allowances as the Governor and if he holds any other office shall not act therein or be entitled to the salary and allowances appertaining thereto while he is acting as Governor

5 Any sums required to give effect to the provisions of this Schedule shall be paid out of and charged on the revenues of Burma

ELEVENTH SCHEDULE

Sections 33, 304 [illegible] 336 [illegible] 446

Areas in Burma to which Special Provisions apply

Part I

(1) The Federated Shan States as specified in Notification No 31 dated 27th September 1922 of the Political Department of the Government of Burma as amended by any subsequent notification before the passing of this Act

(2) The Shan States specified in Notification No 41 dated 5th October 1922 of the Political Department of the Government of Burma other than the Federated Shan States

A D 1935

9th Sch —*cont*

Vacancies in legislative council

93 —(1) A nominated or elected member of either chamber of the Indian legislature may resign his office to the Governor General, and on the acceptance of the resignation the office shall become vacant

(2) If for a period of two consecutive months any such 5 member is absent from India or unable to attend to the duties of his office the Governor General may, by notification published in the government gazette declare that the seat in council of that member has become vacant

Supplemental 1

Provisions as to rules

129A —(1) Where any matter is required to be prescribed or regulated by rules under this Act, and no special provision is made as to the authority by whom the rules are to be made, the rules shall be made by the Governor General in Council, with the sanction of the Secretary of State, and shall not be subject to 1 repeal or alteration by any legislature in India

(2) Any rules made under this Act may be so framed as to make different provision for different provinces

(3) Any rules to which subsection (1) of this section applies shall be laid before both Houses of Parliament as soon as may 20 be after they are made, and, if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled, His Majesty in Council may annul the rules or any of them, and 25 those rules shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder

Provided that the Secretary of State may direct that any rules to which this section applies shall be laid in draft before both Houses of Parliament, and in such case the rules shall not 30 be made unless both Houses by resolution approve the draft either without modification or addition, or with modifications and additions to which both Houses agree, but, upon such approval being given, the rules may be made in the form in which they have been approved, and such rules on being so made 35 shall be of full force and effect, and shall not require to be further laid before Parliament

TENTH SCHEDULE

A D 1935

Section 299

PROVISIONS AS TO GOVERNOR OF BURMA.

1 There shall be paid to the Governor such annual salary, such allowances for his expenses in respect of equipment and 5 travelling upon appointment and such other allowances, as may from time to time be fixed by His Majesty in Council

2 Such provision shall be made for enabling the Governor to discharge conveniently and with dignity the duties of his office as may be determined by His Majesty in Council

0 3 While the Governor is absent on leave he shall, in lieu of his salary, be entitled out of the revenues of Burma to such leave allowance as may be fixed by His Majesty in Council

4 Any person appointed by His Majesty to act as Governor during the absence of the Governor from Burma or during any 5 period during which the Governor is for any reason unable to perform the duties of his office shall, while he is acting as Governor, have all the powers and be subject to all the duties of the Governor and shall be entitled to receive the same salary and save as may be otherwise provided by His Majesty in Council, the same 0 allowances as the Governor, and, if he holds any other office, shall not act therein or be entitled to the salary and allowances appertaining thereto while he is acting as Governor

5 Any sums required to give effect to the provisions of this Schedule shall be paid out of and charged on the revenues 5 of Burma

ELEVENTH SCHEDULE

Sections 33, 304 332 336 3 3 446

AREAS IN BURMA TO WHICH SPECIAL PROVISIONS APPLY

PART I

(1) The Federated Shan States as specified in Notification 30 No 31, dated 27th September, 1922, of the Political Department of the Government of Burma as amended by any subsequent notification before the passing of this Act

(2) The Shan States specified in Notification No 41, dated 5th October, 1922 of the Political Department of the Government 35 of Burma other than the Federated Shan States

A D 1935

9th Sch

—cont

Vacancies in legislative council

93 —(1) A nominated or elected member of either chamber of the Indian legislature may resign his office to the Governor General and on the acceptance of the resignation the office shall become vacant

(2) If for a period of two consecutive months any such 5 member is absent from India or unable to attend to the duties of his office the Governor General may by notification published in the government gazette declare that the seat in council of that member has become vacant

Supplemental 10

Provisions as to rules

129A —(1) Where any matter is required to be prescribed or regulated by rules under this Act and no special provision is made as to the authority by whom the rules are to be made the rules shall be made by the Governor General in Council with the sanction of the Secretary of State and shall not be subject to 15 repeal or alteration by any legislature in India

(2) Any rules made under this Act may be so framed as to make different provision for different provinces

(3) Any rules to which subsection (1) of this section applies shall be laid before both Houses of Parliament as soon as may 20 be after they are made and if an address is presented to His Majesty by either House of Parliament within the next thirty days on which that House has sat after the rules are laid before it praying that the rules or any of them may be annulled His Majesty in Council may annul the rules or any of them and 25 those rules shall thenceforth be void but without prejudice to the validity of anything previously done thereunder

Provided that the Secretary of State may direct that any rules to which this section applies shall be laid in draft before both Houses of Parliament and in such case the rules shall not 30 be made unless both Houses by resolution approve the draft either without modification or addition or with modifications and additions to which both Houses agree but upon such approval being given the rules may be made in the form in which they have been approved and such rules on being so made 35 shall be of full force and effect and shall not require to be further laid before Parliament

The House of Representatives

3 Of the seats in the House of Representatives—

(a) ninety one seats shall be general non communal seats,

5 (b) twelve seats shall be filled by representatives of Karens,

(c) eight seats shall be filled by representatives of Indians,

(d) two seats shall be filled by representatives of Anglo
10 Indians

(e) three seats shall be filled by representatives of Europeans

(f) nine seats shall be filled by representatives of Commerce and Industry,

15 (g) one seat shall be filled by a representative of Rangoon University

(h) two seats shall be filled by representatives of Indian Labour,

(i) two seats shall be filled by representatives of
20 non Indian Labour

References in this Schedule to representatives of Indians do not include references to representatives of Indian labour

4 So much of Burma as His Majesty may deem suitable for inclusion in any constituency or in any constituency of a
25 particular class shall be divided into territorial constituencies—

(i) for the election of persons to fill general non communal seats,

(ii) for the election of persons as representatives of Karens,

(iii) for the election of persons as representatives of Indians,

30 (iv) for the election of persons as representatives of Indian Labour,

(v) for the election of persons as representatives of non Indian Labour,

and in the case of each class of constituency as aforesaid the total
35 number of seats available shall be distributed between the constituencies by the assignment of one or more of those seats to each constituency

5 In the case of the seats to be filled by representatives of Anglo Indians and the seats to be filled by representatives of
40 Europeans the whole of Burma shall be the constituency

6—(1) No person who is entitled to vote in any constituency for the election of persons as representatives of Karens representatives of Indians representatives of Anglo Indians or representatives of Europeans, shall be entitled to vote at any
45 election to fill a general non-communal seat

A D 1935

12TH SCH —cont

(2) No Indian shall be entitled to vote at any election of representatives of non Indian labour

(3) No person shall be entitled to vote at an election of representatives of Karens representatives of Indians or of Indian labour, representatives of Anglo Indians or representatives of Europeans unless he is a Karen an Indian an Anglo Indian or a European as the case may be

7 Persons shall be chosen in such manner as may be prescribed to hold the seats to be filled by representatives of Commerce and Industry and Rangoon University

8 Of the seats to be filled by representatives of Commerce and Industry one shall be filled by a representative of the Burmese Chamber of Commerce two shall be filled by representatives of the Burma Indian Chamber of Commerce four shall be filled by representatives of the Burma Chamber of Commerce one shall be filled by a representative of the Rangoon Trades Association and one shall be filled by a representative of the Chinese Chamber of Commerce

9 A person shall not be qualified to be chosen to fill a seat in the House of Representatives unless—

(a) in the case of a seat to be filled by representatives of Commerce and Industry of a representative of Rangoon University or of representatives of Indian Labour or non Indian Labour, he possesses such qualifications as may be prescribed

(b) in the case of any other seat, he is entitled to vote at an election to fill some seat in the House of Representatives

The Senate

10 Of the thirty six seats in the Senate eighteen shall be filled by persons elected by the members of the House of Representatives in accordance with the system of proportional representation by means of the single transferable vote, and eighteen shall be filled by persons (who shall not be persons holding office under the Crown) chosen by the Governor in his discretion

11 In the event of a casual vacancy occurring in a seat held by an elected Senator who was a member of the Karen, Indian, Anglo Indian or European community, no person shall be eligible to fill the vacancy who is not as the case may be a member of the Karen, Indian Anglo Indian or European community

12—(1) A person shall not be qualified to be chosen to hold a seat in the Senate unless he—

(i) was in the financial year preceding that in which the election is held, assessed to income tax on an income of twelve thousand rupees a year or over, or

(ii) paid, during and in respect of the year of assessment preceding that in which the election is held, land revenue of a thousand rupees or over in Lower Burma or five hundred rupees or over in Upper Burma, or

5 (iii) has previous official service as a member of the Governor's Executive Council in Burma under the Acts repealed by this Act or as a minister or as a judge of the High Court, or as a permanent Deputy Commissioner, or as a permanent district and sessions judge, or

10 (iv) has rendered other public service recognised by the conferment of a title equal to or higher than, the Burman title of Taing Kyo Pyi Kyo Saung or

(v) possesses such other qualifications in respect of the rendering of distinguished public service as the Governor

15 in his discretion may prescribe

(2) For the purposes of this paragraph, where water rate is levied in addition to land revenue, payment thereof shall be treated as payment of land revenue

General

20 13 In the foregoing provisions of this Schedule the following expressions have the meanings hereby assigned to them, that is to say —

"a European" means a British subject of European descent in the male line who is resident in Burma and—

25 (a) who was born, or has a domicile, in the United Kingdom, a British possession or an Indian State or

(b) whose father was so born, or has, or had up to the date of the birth of the person in question, such a domicile,

30 "an Anglo Indian" does not include a European but, subject as aforesaid means a British subject who is resident in Burma and—

(a) who is of European descent in the male line; or

(b) who is of mixed Asiatic and non Asiatic

35 descent, and whose father, grandfather or more remote ancestor in the male line was born in the continent of Europe, Canada Newfoundland New Zealand, Australia, the Union of South Africa or the United States of America and

40 "A Karen" includes a 'Taungthu' and means a person belonging to any race which the Governor exercising his individual judgment may, by notification in the Gazette declare to be a Karen or Taungthu race for the purposes of this Schedule

"An Indian" means a person of Indian descent in the male line being a British subject and resident in Burma who either was born in or has a domicile in Burma or in any State in India or whose father or grandfather was so born or has or had up to the birth of the person in question or of the father of the person in question as the case may be such a domicile. 5

"prescribed" means prescribed by His Majesty in Council or so far as regards any matter which under this Act the Legislature or the Governor of Burma are competent to regulate prescribed by an Act of the Legislature or by a rule made under the next but one succeeding paragraph. 10

14. In so far as provision with respect to the matters herein after mentioned is not made by this Schedule His Majesty in Council may from time to time make provision with respect to those matters or any of them that is to say:— 15

(a) the delimitation of the territorial constituencies;

(b) the qualifications entitling persons to vote at the elections and the preparation of electoral rolls;

(c) the conduct of the elections and the methods of voting thereat; 20

(e) the filling of casual vacancies in the House of Representatives and the Senate;

(f) the expenses of candidates at the elections;

(g) corrupt practices and other offences at or in connection with the elections; 25

(h) the decision of doubts and disputes arising out of or in connection with the elections;

(i) matters ancillary to any such matters as aforesaid.

15. In so far as provision with respect to any matter is not made by this Act or by His Majesty in Council or after the constitution of the Burma Legislature by Act of that Legislature (where the matter is one with respect to which that Legislature is competent to make laws) the Governor in his discretion may make rules for carrying into effect the foregoing provisions of this Schedule and securing the due constitution of the Legislature and in particular but without prejudice to the generality of the foregoing words with respect to— 30 35

(i) the notification of vacancies including casual vacancies and the proceedings to be taken for filling vacancies; 40

(ii) the nomination of candidates;

(iii) the conduct of elections including the application to elections to the Senate of the principle of proportional representation by means of the single transferable vote;

(iv) the expenses of candidates at elections;

(v) corrupt practices and other offences at or in connection with elections;

(vi) the decision of doubts and disputes arising out of or in connection with elections; and

(vii) the manner in which the rules are to be carried into effect.

THIRTEENTH SCHEDULE

Sections 319, 375.

FORMS OF OATHS OR AFFIRMATIONS

1

"I, A.B., having been chosen a member of the Senate [*or* 15 House of Representatives] of Burma, do solemnly swear [*or* affirm] that I will be faithful and bear true allegiance to His Majesty the King, his Heirs and Successors, and that I will faithfully discharge the duty upon which I am about to enter."

2

20 I, A.B., having been appointed Chief Justice [*or* a judge] of the High Court at Rangoon, do solemnly swear [*or* affirm] that I will be faithful and bear true allegiance to His Majesty the King, his Heirs and Successors, and that I will faithfully perform the duties of my office to the best of my ability, knowledge and 25 judgment.

A D 193
Section 364

FOURTEENTH SCHEDULE

THE BURMA RAILWAY BOARD

1 The Burma Railway Board shall be a body corporate by, and may sue and be sued in, that name

2 The Burma Chamber of Commerce the Burma Indian Chamber of Commerce, the Burmese Chamber of Commerce and the Chinese Chamber of Commerce shall each nominate one of the non official members, and two non official members shall be appointed by the Governor exercising his individual judgment

The non official members shall hold office for five years and shall be eligible for re appointment, but any non official member may at any time be removed from office by the Governor exercising his individual judgment, if he is satisfied that the member is for any reason unable or unfit to continue to perform the duties of his office

3 A person shall not be qualified to be appointed or to be a non official member of the Board—

(a) unless he has had experience in commerce, industry, *agriculture, finance, or administration* , or

(b) if he is, or within the twelve months last preceding has been—

(i) a member of the Legislature , or

(ii) in the service of the Crown in Burma , or

(iii) a railway official in Burma

4 The President and members of the Board shall be entitled to receive such salary and allowances as the Governor, exercising his individual judgment may from time to time determine

Provided that the emoluments of a member shall not be reduced during his term of office

5 If a member of the Board is or becomes the holder of any contract for the supply of materials to, or the execution of works for, any railway in Burma, or is or becomes concerned in the management of any company holding such a contract as aforesaid, he shall forthwith make full disclosure of the facts to the Board and shall not take part in the consideration or discussion of, or vote on any question with respect to the contract

A.D. 1935
14th Sch.—cont.

6 All acts of the Board and all questions before it shall be done and decided by a majority of the members present and voting at a meeting of the Board

In the case of an equality of votes at any meeting, the person presiding thereat shall have a second or casting vote

7 Subject to the provisions of this Act the Board may make standing orders for the regulation of their proceedings and business and may vary or revoke any such order

8 The proceedings of the Board shall not be invalidated by any vacancy among its number or by any defect in the appointment or qualification of any member

9 The Board shall not be liable to pay Burma income tax or supertax on any of its income profits or gains

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FIFTEENTH SCHEDULE

Section 321

Enactments Repealed

Session and Chapter of Act	Title	Extent of Repeal
47 and 48 Vict c 56	The Indian Marine Service Act 1884	The whole Act
5 & 6 Geo 5 c 61	The Government of India Act 1915	The whole Act
6 & 7 Geo 5 c 37	The Government of India (Amendment) Act 1916	The whole Act except sections six and eight
9 & 10 Geo 5 c 101	The Government of India Act 1919	The whole Act
12 & 13 Geo 5 c 20	The Indian High Courts Act 1922	The whole Act
14 & 15 Geo 5 c 28	The Government of India (Leave of Absence) Act 1924	The whole Act
15 & 16 Geo 5 c 83	The Government of India (Civil Services) Act 1925	The whole Act
17 & 18 Geo 5 c 8	The Government of India (Indian Navy) Act 1927	The whole Act
17 & 18 Geo 5 c 24	The Government of India (Statutory Commission) Act 1927	The whole Act
20 & 21 Geo 5 c 2	The Government of India (Aden) Act 1929	The whole Act
23 & 24 Geo 5 c 23	The Government of India (Amendment) Act 1933	The whole Act

Government of India

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BILL

To make further provision for the government of India

Presented by Secretary Sir Samuel Hoare supported by the Prime Minister, Mr Baldwin, Secretary Sir John Simon Mr Attorney General and Mr Butler

ORDERED BY THE HOUSE OF COMMONS TO BE PRINTED

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